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Legislative Assembly of Ontario

First Session, 39th Parliament

Assemblée législative de l'Ontario

Première session, 39^e législature

Official Report of Debates (Hansard)

Wednesday 12 December 2007

Journal des débats (Hansard)

Mercredi 12 décembre 2007

**Standing committee on
justice policy**

Organization

**Comité permanent
de la justice**

Organisation

Chair: Lorenzo Berardinetti
Clerk: Susan Sourial

Président : Lorenzo Berardinetti
Greffière : Susan Sourial



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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
JUSTICE POLICYCOMITÉ PERMANENT
DE LA JUSTICE

Wednesday 12 December 2007

Mercredi 12 décembre 2007

The committee met at 1006 in room 228.

ELECTION OF CHAIR

The Clerk of the Committee (Ms. Susan Sourial): Honourable members, it's my duty to call upon you to elect a Chair. Are there any nominations?

Mr. Khalil Ramal: I want to nominate—

Mr. David Zimmer: Are you doing the Chair first and then the subcommittee?

The Clerk of the Committee (Ms. Susan Sourial): I'm doing the Chair and the Vice-Chair, and then we'll get to the subcommittee.

Mr. David Zimmer: Okay. It's my pleasure to nominate Lorenzo Berardinetti as Chair and Jeff Leal as Vice-Chair of the committee.

The Clerk of the Committee (Ms. Susan Sourial): We're just doing one—

Mr. David Zimmer: One at a time? Okay. It's my pleasure to nominate Lorenzo Berardinetti as Chair.

The Clerk of the Committee (Ms. Susan Sourial): Mr. Berardinetti, do you accept?

Mr. Lorenzo Berardinetti: Yes.

The Clerk of the Committee (Ms. Susan Sourial): Are there any further nominations? Seeing none, I declare nominations closed and Mr. Berardinetti elected Chair.

ELECTION OF VICE-CHAIR

The Chair (Mr. Lorenzo Berardinetti): Honourable members, may I have names for the election of Vice-Chair?

Mr. David Zimmer: It's my pleasure to nominate Jeff Leal to be Vice-Chair of this committee.

The Chair (Mr. Lorenzo Berardinetti): Any other nominations? Seeing none, nominations are closed and Mr. Leal is elected as Vice-Chair. Congratulations.

Mr. Jeff Leal: I accept it, Mr. Chair. Thank you very much.

Mr. Peter Kormos: Is that your first acclamation, Jeff?

Mr. Jeff Leal: Second.

Mr. Peter Kormos: You were a Vice-Chair before?

Mr. Jeff Leal: I was acclaimed in 1991 as a city councillor.

APPOINTMENT OF SUBCOMMITTEE

The Chair (Mr. Lorenzo Berardinetti): May I ask that somebody move the subcommittee membership?

Mr. Khalil Ramal: I nominate Mr. Zimmer to be on the subcommittee.

Mr. Peter Kormos: They've got the script there for you.

Mr. Khalil Ramal: I know.

The Chair (Mr. Lorenzo Berardinetti): Only Mr. Zimmer? A committee of one?

Mr. Khalil Ramal: I move that a subcommittee on committee business be appointed to meet from time to time at the call of the Chair, or on the request of any member thereof, to consider and report to the committee on the business of the committee;

That the subcommittee be composed of the following members: the Chair as chair—yourself, Mr. Chair.

Mr. Peter Kormos: He knew that.

Mr. Khalil Ramal: Okay, Mr. Lorenzo—

Mr. Peter Kormos: He knew that too.

Mr. Khalil Ramal: —and Mr. Jeff Leal, and also I recommend to put on the committee now—

Mr. Peter Kormos: What's Leal got to do with it?

The Chair (Mr. Lorenzo Berardinetti): No, I think—

Mr. Khalil Ramal: —that the presence of all members of the subcommittee—

The Chair (Mr. Lorenzo Berardinetti): So you're moving Mr. Zimmer—

Mr. Khalil Ramal: Mr. Zimmer and a member from each party—Mr. Peter Kormos, and I don't know the rest who are going to be there.

The Chair (Mr. Lorenzo Berardinetti): So you're moving Mr. Yakabuski—

Mr. Khalil Ramal: Okay, John Yakabuski.

The Chair (Mr. Lorenzo Berardinetti): You're moving Mr. Yakabuski, Mr. Kormos, Mr. Zimmer and myself to be members of the subcommittee.

Mr. Khalil Ramal: Correct.

The Chair (Mr. Lorenzo Berardinetti): Thank you.

Mr. Jeff Leal: Now that is a holy trinity if ever—

Mr. Khalil Ramal: There are not names there, no names there.

The Chair (Mr. Lorenzo Berardinetti): Any debate? Okay, so on the motion then, as is, all those in favour? Opposed? Carried.

Any other business? None? Motion to adjourn?

Mr. Jeff Leal: I'll move adjournment.

Interjection.

The Chair (Mr. Lorenzo Berardinetti): Don't need

a motion to adjourn? We are adjourned. Thank you very much and we'll see you soon.

The committee adjourned at 1009.

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Vice-Chair / Vice-Président

Mr. Jeff Leal (Peterborough L)

Mr. Lorenzo Berardinetti (Scarborough Southwest / Scarborough-Sud-Ouest L)

Mrs. Christine Elliott (Whitby–Oshawa PC)

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Mr. Khalil Ramal (London–Fanshawe L)

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Ms. Susan Sourial

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Official Report of Debates (Hansard)

Wednesday 16 April 2008

Journal des débats (Hansard)

Mercredi 16 avril 2008

Standing committee on justice policy

Christopher's Law
(Sex Offender Registry)
Amendment Act, 2008

Comité permanent de la justice

Loi de 2008 modifiant
la Loi Christopher
sur le registre
des délinquants sexuels

Chair: Lorenzo Berardinetti
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
JUSTICE POLICY

Wednesday 16 April 2008

COMITÉ PERMANENT
DE LA JUSTICE

Mercredi 16 avril 2008

*The committee met at 1003 in room 228.***The Clerk of the Committee (Ms. Susan Sourial):**

As we're waiting for our Vice-Chair, I thought we would move ahead and have an Acting Chair. Are there any nominations for an Acting Chair?

Mr. Lou Rinaldi: Yes. While we're waiting for the Chair, I would like to nominate my good friend David Zimmer as Acting Chair.

The Clerk of the Committee (Ms. Susan Sourial): Any further nominations?

Mr. Peter Kormos: Who is the Chair?

The Clerk of the Committee (Ms. Susan Sourial): Mr. Berardinetti.

Mr. Peter Kormos: And neither Mr. Berardinetti nor Mr. Leal can bother showing up for a 10 o'clock meeting?

Mr. David Zimmer: Mr. Berardinetti is ill today. Mr. Leal is going to chair but he's just speaking to a report in cabinet, for one of the cabinet committees. He'll be here in a couple of minutes. He knows he has to be here at 10. I'll find out if he's going to be another five minutes—

Mr. Lou Rinaldi: Could we carry on, please?

Mr. Peter Kormos: I don't care who chairs it.

Mr. Lou Rinaldi: Let's carry on.

Mr. Garfield Dunlop: I'll second his motion.

The Clerk of the Committee (Ms. Susan Sourial): Seeing no further nominations: Mr. Zimmer.

SUBCOMMITTEE REPORT

The Acting Chair (Mr. David Zimmer): I call the committee to order. The first order of business is the report of the subcommittee on committee business. Will someone move that report?

Mr. Lou Rinaldi: I'll move it. Have you got—

The Acting Chair (Mr. David Zimmer): You'll have to read it into the record. Do you have a copy, Mr. Rinaldi?

Mr. Lou Rinaldi: I have it. We need to read it.

Mr. Peter Kormos: Do you want me to do it, Chair?

The Acting Chair (Mr. David Zimmer): We'll hang onto this one.

Mr. Peter Kormos: With great difficulty, as I can see.

The Acting Chair (Mr. David Zimmer): Mr. Rinaldi.

Mr. Lou Rinaldi: Your subcommittee on committee business met on Tuesday, April 8, 2008, to consider the

method of proceeding on Bill 16, An Act to amend Christopher's Law (Sex Offender Registry), 2000, and recommends the following:

(1) That the committee hold one day of clause-by-clause consideration during its regular meeting time on Wednesday, April 16, 2008.

(2) That the deadline (for administrative purposes) for filing amendments be 12 noon, Monday, April 14, 2008.

(3) That the research officer provide the committee with any academic articles on the effectiveness of sex offender registries.

(4) That the clerk of the committee, in consultation with the Chair, be authorized, prior to the passage of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

That's your subcommittee report, Mr. Chair.

The Acting Chair (Mr. David Zimmer): Carried? Carried.

CHRISTOPHER'S LAW
(SEX OFFENDER REGISTRY)
AMENDMENT ACT, 2008LOI DE 2008 MODIFIANT
LA LOI CHRISTOPHER
SUR LE REGISTRE
DES DÉLINQUANTS SEXUELS

Consideration of Bill 16, An Act to amend Christopher's Law (Sex Offender Registry), 2000 / Projet de loi 16, Loi modifiant la Loi Christopher de 2000 sur le registre des délinquants sexuels.

The Acting Chair (Mr. David Zimmer): We're here to consider Bill 16, An Act to amend Christopher's Law (Sex Offender Registry), 2000, Minister Bartolucci.

Are there any comments, questions or amendments to any section of the bill, and, if so, to which section?

Mr. Peter Kormos: I have a comment on section 1, for the sake of argument. I appreciate the wonderful briefing book that's been prepared. They're always well done. But as you know from your experience here, Chair, the issue today isn't the contents of the bill; it's the amendments. You know that it always expedites these things—this seems to be a cleanup of some really sloppy political supervision of the preparation of the bill. It doesn't amaze me or surprise me. But we could perhaps accelerate this if we had similar explanatory notes. Other-

wise, we're going to have to go through the exercise of asking somebody over there what that amendment serves, and then he or she will be reading from their script, whereas, I can assure you, all three of us over here can read. Sometimes we're not very good at it; we're simple people. But if we could read it, we could expedite this whole exercise.

This isn't partisan. These aren't partisan amendments. This is, again, cleanup. A mess was created because of the haste with which the government pursued this matter. Now the government's trying to clean up its mess. Have we got explanatory notes for these so we can accelerate this?

The Acting Chair (Mr. David Zimmer): Mr. Naqvi?

Mr. Yasir Naqvi: Mr. Kormos, I was intending to provide, every time I move a motion, the rationale, explanation, for each particular motion. We can discuss it. As you even noted yourself, most of these amendments are technical in nature, just to make sure that cleanup can be taken in the legislation or in the bill.

Mr. Peter Kormos: If I might ask, Chair, why was it necessary to do cleanup post facto? What happened?

The Acting Chair (Mr. David Zimmer): Mr. Kormos, with respect, we'll go through the normal procedure, calling the government motions and any opposition motions, and we'll—

Mr. Peter Kormos: There are no opposition motions.

The Acting Chair (Mr. David Zimmer): Well, I'll call for them. You may have them; you may not. Ms. Elliott, any comment?

Mrs. Christine Elliott: If we could precede with the normal explanation, that would be satisfactory.

Mr. Garfield Dunlop: I think, based on our comments in the Legislature and our comments in subcommittee, and even today, our party, the Progressive Conservative Party, is quite proud of this bill. It was our bill in the beginning—Dave Tsubouchi and Bob Runciman. If this, in fact, is an improvement and it is supported by the stakeholders—I've contacted the stakeholders, and they do support it—then I look forward to these technical types of changes being cleaned up and getting on with it, getting it into the House and getting it, in fact, to become law as soon as possible.

The Acting Chair (Mr. David Zimmer): All right. On that note, let's move to government motion number 1.

Mr. Yasir Naqvi: I move that section 1 of the bill be amended by adding the following subsection:

“(2) The definition of ‘sex offence’ in subsection 1(1) of the act is amended by striking out ‘or’ at the end of clause (b) and by adding the following clause:

“(b.1) an offence referred to in paragraph (b) or (f) of the definition of “designated offence” in subsection 490.011(1) of the Criminal Code (Canada) in respect of which an order in form 52 has been or is made under subsection 490.012(2) of that act, or.”

1010

The Acting Chair (Mr. David Zimmer): Any debate? Shall it carry? Carried.

Government motion 2.

Mr. Yasir Naqvi: I move that section 1 of the bill be amended by adding the following subsection:

“(3) Section 1 of the act is amended by adding the following subsection:

“‘Custodial portion of a sentence

“(3) For the purposes of this act, the custodial portion of a sentence does not include the portion of the sentence served on parole.”

The Acting Chair (Mr. David Zimmer): Debate?

Mr. Peter Kormos: That requires some explanation.

Mr. Yasir Naqvi: This particular motion goes in conjunction with subsequent motion 3, right after this motion. This deals with catching those individuals who are released from custody on parole. They will also be required to be registered on the sex offender registry.

This is a technical amendment so that motion 3 can catch people who have been released on parole from custody.

Mr. Peter Kormos: Then perhaps the parliamentary assistant could explain why it says that, “For the purposes of this act, the custodial portion of a sentence does not include the portion of the sentence served on parole.”

Mr. Yasir Naqvi: Because the third motion, which we'll be moving, talks about that within 15 days after an offender is released from custody on parole in respect of a sex offence, he or she has to register on the sex offender registry.

Mr. Peter Kormos: I wonder if the parliamentary assistant has any personal views on this.

Mr. Yasir Naqvi: My personal view is that we are following the Auditor General's report and are requiring those individuals who have been released on parole from custody to register within 15 days.

The Acting Chair (Mr. David Zimmer): Further debate? Shall it carry? Carried.

Shall section 1, as amended, carry? Carried.

Government motion 3.

Mr. Yasir Naqvi: I move that section 2 of the bill be amended by adding the following subsection:

“(0.1) Subsection 3(1) of the act is amended by adding the following clause:

“(a.0.1) within 15 days after he or she is released from custody on parole in respect of a sex offence.”

The Acting Chair (Mr. David Zimmer): Debate? No debate. Shall it carry? Carried.

Government motion 4.

Mr. Yasir Naqvi: I move that section 2 of the bill be amended by adding the following subsection:

“(1.1) Subsection 3(1) of the act is amended by adding the following clause:

“(c.1) within 15 days after he or she changes his or her name.”

The Acting Chair (Mr. David Zimmer): Debate?

Mr. Peter Kormos: Why wouldn't there be any provisions in the Change of Name Act that would require criminal record searches of people who wish to change their names? It seems to me that there were some amendments made some time ago—you recall this, don't you, Chair, and Mr. Dunlop may recall this as well—where

the Change of Name Act was addressed with respect to people using the Change of Name Act to avoid consequences.

Mr. Yasir Naqvi: There are provisions in the Change of Name Act.

Mr. Peter Kormos: To what effect?

Mr. Yasir Naqvi: To ensure that when individuals are changing their names, they have a reporting requirement, as I understand.

Mr. Peter Kormos: Why would the Change of Name Act allow a criminal to change his or her name? Why would we allow that, just as a policy issue?

Mr. Yasir Naqvi: We have to remember that individuals on the sex offender registry are perhaps individuals who were convicted and have served their sentence as well, and are back in the community. Legally speaking, they are not criminals per se anymore, once they have served their sentence.

Mr. Peter Kormos: Chair, if I may, the sex offender registry identifies them as criminals; of course they're criminals after they have served their sentence. If you have been convicted of rape or of molesting a child, you remain a criminal for the rest of your life. Merely serving your sentence doesn't absolve you of criminal culpability, does it?

The Acting Chair (Mr. David Zimmer): Mr. Moridi?

Mr. Reza Moridi: I think we are not discussing the name change act here. We are just working on the current act.

The Acting Chair (Mr. David Zimmer): Further debate?

Mr. Garfield Dunlop: To the parliamentary assistant: I'm curious. Under the sex offender registry, has this been common, the change of names? Is this something that we're seeing on a fairly regular basis, or is it a remote chance that someone would do that? How severe is this?

Mr. Yasir Naqvi: I'm not aware of in how many instances that has occurred, but this is a possibility, that people change their addresses, and individuals can change their names as well. This allows the OPP and local police services the opportunity to ensure that those individuals who might try to get around the system by changing their names are still caught and required to report and be on the sex offender registry.

Mr. Garfield Dunlop: And if I could, when you track someone who has had a sex offence out in, let's say, one of the other provinces, where they are under the national sex offender registry, what kind of impact does it have when they come into Ontario with a name change?

Mr. Yasir Naqvi: Sorry?

Mr. Garfield Dunlop: If they move back to Ontario, is that clearly tracked?

Mr. Yasir Naqvi: Can I ask, perhaps, the legal counsel at this moment to come in and provide you with the technical answer?

The Chair (Mr. David Zimmer): Yes, thank you. Have a seat, and if you would just identify yourself for the record.

Ms. Marnie Corbold: My name is Marnie Corbold. I'm counsel with the Ministry of Community Safety and Correctional Services.

Mr. Garfield Dunlop: Say someone has committed a sexual offence in another province and they move to the province of Ontario with a name change. Is that clearly tracked from the other provinces into Ontario?

Ms. Marnie Corbold: I'm not sure you'd actually have to track it, because the reporting obligation—as you know, the act applies to anyone convicted of a sex offence anywhere in Canada, but the reporting requirement within the act doesn't kick in until the person is actually resident in Ontario. So if a person was living in BC, for example, and changed their name in BC at some point and then became resident in Ontario, the act currently requires them to report within 15 days of becoming resident. At that point, they would report under, presumably, their new name that they had changed to in BC. If they subsequently chose to change their name again, when they were in Ontario, then this new provision would kick in and require them to report within 15 days of making that change of name.

Mr. Garfield Dunlop: Okay. So what I'm saying is, after they have committed the sexual offence and they've been charged and they've served their penalty out there, and then they change their name, is there a way we know that they have moved to the province of Ontario with the name change?

Ms. Marnie Corbold: Not that I'm aware of. They would just be coming to the province with their name as of the time they moved to the province, which is now the new name.

Mr. Garfield Dunlop: Yes. So the question is: What if they don't report? How do we find them under that?

Ms. Marnie Corbold: It's not really a legal question. That is one of the challenges, of course—tracking offenders who are in other provinces and who move to Ontario. That is one of the challenges that I think the auditor had identified: how the Ontario police know about the whereabouts of those people. It's just the reality of it.

The Chair (Mr. David Zimmer): Further debate?

Mr. Peter Kormos: Okay, let's take a look at this amendment: "(c.1) within 15 days after he or she changes his or her name." If one changes their name in another province and arrives in Ontario, within 15 days they're required to report, pursuant to this section. If they arrive in Ontario with whatever name as a sex offender, they're required to register.

My concern is, why in God's name would the province of Ontario let convicted sex offenders change—we can't speak for British Columbia; we can't speak for Alberta. A change of name is provincial jurisdiction. Why would we let somebody change their name if they were a convicted sex offender? Look: The sex offender registry doesn't protect the public per se, because the public doesn't have access to it.

Let me put this to you: If I happen to find out that there's a fellow around 60 years old or so—I don't know

if Clifford Olson is still alive or not—who moves in down the street and his name is Clifford Olson, it's going to get my attention, right? Rightly so. Convictions are matters of public record. People have a right to protect their children. People have a right to protect their families.

The sex offender registry doesn't do that, and I'm not criticizing it for that. But let's not misunderstand what this legislation does. It's not public disclosure. It's not disclosure laws or scarlet-letter laws, like in some of the American jurisdictions. There's debate on both sides of that. I'm not engaging in that debate.

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What I'm saying is, surely it's not good public policy to permit a change of name for a person with a serious criminal record when that is one of the few ways the public has—I'd want to know if the car salesman I'm dealing with five years from now is Conrad Black. I wouldn't trust him for a minute because the guy's a thief—not that he should ever be allowed back into Canada, of course, because he has renounced his Canadian citizenship. Now he's an indicted felon—a convicted felon, not just indicted. I wish he was doing hard time, and I wish he was sharing his cell with some big ape with tattoos all over him who had a penchant for elderly men.

It's a serious issue. Doesn't the public have a right? If there's public disclosure, that's what the public has to rely on: newspaper reports etc. The public doesn't access the sex offender registry, and there are good policy reasons for that, although it's a debatable sort of thing, but there are clear policy reasons for not wanting that. But why would the province of Ontario allow a rapist, a child molester—because the fact is, as you know, most sex offenders serve less than two years. Most sex offenders are dealt with in provincial institutions. Most sex offenders are out on the street earlier rather than later. It's the reality, and again, that's not the subject matter of this debate. That's federal Criminal Code stuff.

Why would the Change of Name Act in Ontario not require criminal record clearance? It has been simplified, right? It's no longer necessarily a courtroom judicial process; it's an administrative process. Why wouldn't we be denying changes of name to people who hadn't clearly received a pardon on good bases, who still had criminal records? I raise that. Your amendment provokes that question. I'm not criticizing the amendment in and of itself, except that we're getting sort of *reductio ad absurdum*, as they say over in Latin-speaking countries.

As Mr. Dunlop points out, if somebody's going to go to the trouble to change their name in British Columbia and then move to Ontario as well, if they're still interested in molesting kids, Mr. Parliamentary Assistant, they're highly unlikely to report to the local police station. They're more likely to report to the local elementary school, Boy Scout troop or public swimming pool. You and I both know that. If they come into Ontario to prey on kids, they're not going to go down to Niagara Regional Police headquarters and say, "Oh, by

the way, here I am. I changed my name. I'm no longer Joe Smith. I'm now Jane Doe, and I molest children."

That's unfortunately one of the fundamental weaknesses that's going to be very difficult to overcome, unless and until you have the requirement—you see, part of what the auditor—Mr. Leal, welcome. What time is it? Mr. Dunlop, what time is it? It's 10:30. Welcome.

Mr. Jeff Leal: It's good to be here.

Mr. Peter Kormos: I understand.

Mr. Jeff Leal: I wasn't sure of my responsibilities.

Mr. Peter Kormos: Yes, but you're paid to be the Vice-Chair, and you weren't working at that.

Surely part of the concern that the Auditor General was addressing was the lack of integration. The fact that people have to report after conviction, after release etc., underscores the fundamental flaw in the non-communication of courts, for instance, communicating to various police authorities and the lack of centralization.

I support the amendment, but at the end of the day, it's a little bit of overkill. It's minutiae that, as Mr. Dunlop says, is there simply to complete the package more so than have a practical impact.

Thank you, Chair. I have no further comments on this motion.

The Vice-Chair (Mr. Jeff Leal): Thank you very much, Mr. Kormos. Further discussion?

All in favour of the amendment? Opposed? It's carried.

Mr. Yasir Naqvi: Could I move the fifth motion, Mr. Chair?

The Vice-Chair (Mr. Jeff Leal): Yes.

Mr. Yasir Naqvi: I move that clause 3(1)(f) of the act, as set out in subsection 2(2) of the bill, be amended by striking out "under clause (a), (a.1), (a.2), (a.3), (b), (c) or (d)" and substituting "under any of clauses (a) to (d)."

The Vice-Chair (Mr. Jeff Leal): Comments or questions?

Mr. Peter Kormos: An eminently reasonable amendment. For the life of me, when the parliamentary assistant first read the bill in its draft form, I don't understand why he wouldn't have caught that. He's a clever man. This is the sort of thing that should have jumped off the page at him. But I suppose, as he gets more experience, we won't have a need for these types of amendments cleaning up legislation that—

The Vice-Chair (Mr. Jeff Leal): Sober second thought is always a good course.

Mr. Peter Kormos: You're implying he wasn't sober the first time?

The Acting Chair (Mr. Jeff Leal): No, I was saying—that will always define the Canadian Senate.

Mr. Peter Kormos: Oh, you're advocating the Senate now, Chair? You've placed yourself in an interesting minority.

The Vice-Chair (Mr. Jeff Leal): No, no. I'm just saying what's been said about it, Mr. Kormos.

Mr. Peter Kormos: We won't need to waste all this time on cleaning up stuff because the PA will catch this stuff the first time around. It may never happen again.

The Acting Chair (Mr. Jeff Leal): Thank you, Mr. Kormos. Any further comments or questions?

All in favour of the amendment? Carried.

Mr. Yasir Naqvi: I move that section 2 of the bill be amended by adding the following subsection:

“(3) Subsections 3(4) and (5) of the act are repealed and the following substituted:

“Notice of obligation to report

“(4) Every police force shall make reasonable efforts to ensure that it gives written notice of the obligation to report under subsection (1) to every person charged by the police force with a sex offence, at the time he or she is so charged.

“Same

“(5) The ministry shall make reasonable efforts to ensure that it, or another person or entity, gives written notice of the obligation to report under subsection (1) to every person convicted of a sex offence or found not criminally responsible of a sex offence on account of mental disorder, after the person is so convicted or found.

“Same

“(6) The notice required by subsections (4) and (5) shall be in a form approved by the ministry.”

The Vice-Chair (Mr. Jeff Leal): Comments or questions?

Mr. Peter Kormos: I want to make sure—we're dealing with government motion number 6?

Mr. Yasir Naqvi: Yes.

Mr. Peter Kormos: Why would you want to give written notice to somebody necessarily found not criminally responsible of a sex offence on account of mental disorder? They're insane. They're out of touch with reality. How meaningful is written notice to them? They were found not guilty because they're insane. They're delusional. They'll either think that they're receiving radio signal waves through their eyeglasses or through their dentures or what have you. Why?

Mr. David Zimmer: You've had those moments in the Legislature.

Mr. Peter Kormos: Listen, I've witnessed it for 20 years now.

Mr. Yasir Naqvi: Mr. Kormos, I think you're generalizing. When we know the issue is mental health, there are ranges in terms of the type of mental health issues and diseases. Not everybody is as you describe, in that position. So there is utility to giving written notice to individuals who are suffering from mental health issues.

Mr. Peter Kormos: Okay, Chair. I hear him, but I hope that the threshold for “not guilty by reason of mental illness” has not dropped that low. As I've had it explained to me by the occasional lawyer, it's pretty darn high. A person's got to be way out there, like right out of touch with reality. But okay; it's inoffensive, at the end of the day, to give people written notice. All it does is require reasonable effort. It's inoffensive. It's not a bad amendment, but it's not a good amendment either.

Mr. Garfield Dunlop: To the parliamentary assistant: Is number 5 a recommendation from the auditor? Is that where that came from?

Mr. Yasir Naqvi: Yes, this is part of that effort from the auditor: to ensure that we catch those individuals who have been found criminally not responsible because of their mental health but who had committed a sexual offence—that they are also registered in the sexual offender registry. The subsequent amendments in the bill, you will see, require health facilities to report and register those individuals in the sex offender registry

Mr. Garfield Dunlop: But that was an identification from the auditor's report.

Mr. Yasir Naqvi: Yes.

Mr. Garfield Dunlop: All right.

Mrs. Christine Elliott: I suppose the intention was to cover off the bases for someone found either guilty or not criminally responsible. But I do share Mr. Kormos's concern that if they were found not criminally responsible, the presumption is that they lack the capacity to make their own decisions, either with respect to property, personal care or anything else. So I think it's somewhat meaningless. I agree that it's not offensive, but I don't think it's going to be helpful in any respect, in reality.

1030

Mr. Peter Kormos: I think, in an obvious sense of generosity, the opposition members have clearly decided not to defeat this motion.

The Vice-Chair (Mr. Jeff Leal): Any further comments or questions? All in favour of this amendment? Carried.

Shall section 2, as amended, carry? Carried.

We will now proceed to section 3.

Mr. Yasir Naqvi: I move that section 3 of the bill be amended by adding the following subsection:

“(0.1) Section 4 of the act is amended by adding the following subsection:

“Verification of address

“(1.1) The police force shall make reasonable efforts to verify an offender's address, as provided to the police force by the offender, at least once after the offender last presented himself or herself to the police force under subsection 3(1).”

The Vice-Chair (Mr. Jeff Leal): Comments or questions? All in favour? Carried.

Mr. Yasir Naqvi: I move that subsection 4(2) of the act, as set out in section 3 of the bill, be amended by striking out “and to enter the community.”

The Vice-Chair (Mr. Jeff Leal): Comments or questions? All in favour? Carried.

Shall section 3, as amended, carry? Carried.

Section 4?

Mr. Yasir Naqvi: I move that section 4.1 of the act, as set out in section 4 of the bill, be struck out and the following substituted:

“Reports of unescorted temporary absence passes, leaves

“4.1(1) If an offender who is an inmate of a correctional institution is authorized to be released from the

institution on an unescorted temporary absence pass, the correctional institution shall, within 24 hours before the inmate is released, notify the ministry,

“(a) that an unescorted temporary absence pass has been granted to the offender;

“(b) of the proposed dates of the offender’s release under the pass and of his or her return to the institution; and

“(c) of any relevant information about the offender’s proposed activities and whereabouts for the duration of his or her release under the pass.

“Same—young persons

“(2) If an offender who is a young person serving any portion of his or her sentence in a youth custody facility is authorized under section 91 of the Youth Criminal Justice Act (Canada) to be released from the facility on an unescorted leave, the facility shall, within 24 hours before the young person is released, notify the ministry,

“(a) that an unescorted leave has been granted to the offender;

“(b) of the proposed dates of the offender’s release under the leave and of his or her return to the facility; and

“(c) of any relevant information about the offender’s proposed activities and whereabouts for the duration of his or her release under the leave.

“Cancellation, suspension of passes, leaves

“(3) The correctional institution or youth custody facility shall also notify the ministry forthwith if an unescorted temporary absence pass or leave is cancelled or suspended, or if the offender is declared unlawfully at large.

“Manner of notification

“(4) The notification required by subsections (1), (2) and (3) must be given in a manner approved by the ministry.

“Definitions

“(5) In this section,

“‘correctional institution’ and ‘inmate’ have the same meanings as in section 1 of the Ministry of Correctional Services Act; (‘établissement correctionnel’, ‘détenu’) ”

“‘youth custody facility’ means a place of open custody or a place of secure custody, as defined in section 88 of the Child and Family Services Act; (‘lieu de garde’).”

The Vice-Chair (Mr. Jeff Leal): Comments or questions? Mr. Kormos, please; then Mr. Dunlop.

Mr. Peter Kormos: It’s interesting—and I understand the goal here, but let’s understand how this underscores how dangerous it is to have a sex offender registry that’s incomplete and in many respects more dangerous than not having one at all, although I’m loath to say the latter. Clearly, you have no jurisdiction over federal prisons; this only applies to provincial correctional facilities. One wonders why child molesters would be getting unescorted releases; one really wonders. At the same time, one understands that with the maximum sentence—what is it, two years less a day, I think? Mr. Zimmer might know, because he’s a lawyer—at some point, they’re going to be out in any event. I suppose the paucity of

treatment of programs in our provincial facilities and the absolute absence of them in federal institutions should be of concern.

Let’s understand that this only applies to provincial correctional facilities. If one presumes that the more serious offenders are going to be in the federal institutions, two-year sentences plus, what it implies—although regrettably some very serious and dangerous sex offenders are in provincial institutions, courts in sentencing impose what I call provincial sentences—is that the most dangerous sexual offenders, who are serving federal sentences, who are out on interim releases and paroles, aren’t going to be reported. How do we deal with that? How do we address that? Surely you share that concern. Is that dealt with anywhere in the legislation?

The Vice-Chair (Mr. Jeff Leal): Parliamentary assistant?

Mr. Yasir Naqvi: Counsel could probably address that question.

The Vice-Chair (Mr. Jeff Leal): For the purposes of Hansard, if you could just identify yourself, please.

Ms. Marnie Corbold: Yes. I already did. I’m Marnie Corbold, counsel from the Ministry of Community Safety and Correctional Services.

I think you answered your own question. In provincial legislation, we can’t dictate how federal prisons operate, so it really is a jurisdictional challenge for us.

Mr. Peter Kormos: Thank you, ma’am. I’m not quarrelling with you and I’m not criticizing you, because the province doesn’t have jurisdiction. It’s as simple as that.

But do you understand what I’m saying, Chair, when I say that this is a serious problem? If the police, by virtue of the sex offender registry, have the names of sex offenders who are released from prison and/or out on day parole, they’re going to be focusing on those people and, in the course of focusing on them, may well neglect or omit to deal with a perpetrator who’s out on a federal release program. In many respects it’s a very dangerous thing. I’m not suggesting that police enter these things with blinders on or with tunnel vision, but it’s a very, very dangerous scenario. Again, I’m not criticizing you, Mr. Parliamentary Assistant. But it seems that there should be some earnest effort—and if there is some, this is not an inappropriate time and place to mention it—to convince the federal parallel to co-operate and collaborate in this exercise.

I hope there’s agreement in that regard. It’s a terribly frightening thing. Again, let’s go back to that horrible scenario we talked about, the one-hour rule and the 24-hour rule about kids being snatched by sex offenders and the likelihood of survival. You’ve got that incredible pressure on cops in any given community. Time is of the essence. They go to the sex offender registry and identify any number of people on the registry who have been released from prison or out of court. They list them in the geographic area and then they find out that there are three or four—Toronto is a big city, and there could be three or four—unescorted leaves on any given day; perhaps more. But then A, B or C out of a federal institution is in town

and doesn't show up on the radar. It will eventually, because the cops are going to investigate, but when you talk about a one-hour rule—am I right? The one-hour rule and the 24-hour rule are the terms of reference? When you talk about 24-hour time frames, yikes.

So I just say this again: Your amendment is inoffensive but for the impression that it might create in some people's perceptions, the understanding that it's going to be the less dangerous sex offenders—presuming that they get lower sentences, which isn't always the case—who end up on the registry as a result of day parole or unescorted day leave, as compared to the more dangerous sex offender. Although, why would a child molester have an unescorted day leave—so they can go and hang out at the Y? I don't know. It boggles the mind.

The Vice-Chair (Mr. Jeff Leal): Thank you, Mr. Kormos. Mr. Dunlop or Ms. Elliott?

Mr. Garfield Dunlop: Yes.

In section 4.1 you've made a change to clause (c). You've left off a sentence of it from the original intent. Subsection (2) is a new section completely, and you've added a new definition, the youth facility.

1040

Mr. Yasir Naqvi: Yes.

Mr. Garfield Dunlop: Can you—my colleague just asked me this. Maybe it's really her question to ask.

Mrs. Christine Elliott: I'm just wondering if you can explain why there is no requirement to declare the purpose of the pass. You've just got "any relevant information." That seems a little loose to me, where it was much tighter before in terms of what information is required to be provided.

Mr. Yasir Naqvi: Counsel, do you want to address that?

Ms. Marnie Corbold: This was something that, when we were going back and working with legislative counsel on it, we thought the additional language was unnecessary to achieve the purpose we were getting at. It certainly wasn't intended to be reducing the amount of information. We felt that the tighter wording that we have in the proposed motion did in fact cover it.

Mrs. Christine Elliott: Is it possible to consider that? I think the purpose of the pass is really important and the location of the person and any other relevant information. "Any relevant information" could be up to the discretion of the person who is dealing with it.

Ms. Marnie Corbold: You'll see that we still have "proposed activities" in the language, and on the actual temporary absence pass forms it's very specific things like medical leave or bereavement leave. We've assumed, given that you had that purpose in there plus the whereabouts and duration, that that was sufficient information for the police to achieve the objective.

Mrs. Christine Elliott: So I understand that all of that information would be already detailed and that would be available in the pass itself.

Ms. Marnie Corbold: Exactly. It's a fairly detailed form they have to fill out. I don't think very many sex offenders do in fact get these sorts of unescorted leaves.

Mrs. Christine Elliott: Thank you very much.

The Vice-Chair (Mr. Jeff Leal): Any further comments or questions? All in favour of the amendment? Carried.

Shall section 4, as amended, carry? Carried.

Mr. Yasir Naqvi: I move that section 5 of the bill be struck out and the following substituted:

"5. Subsection 5(1) of the act is amended by adding 'or by a correctional institution or youth custody facility in accordance with section 4.1' after 'section 4.'"

The Vice-Chair (Mr. Jeff Leal): Comments or questions? All in favour? Carried.

Shall section 5, as amended, carry? Carried.

Section 6.

Mr. Yasir Naqvi: I move that subsection 8(1.2) of the act, as set out in section 6 of the bill, be struck out and the following substituted:

"Same

"(1.2) Despite subsection (1), clauses 3(1)(a.0.1) and (a.3) apply to every offender anywhere in Canada who is released from custody as described in clause 3(1)(a.0.1) or (a.3), as the case may be, on or after the day this subsection comes into force."

The Vice-Chair (Mr. Jeff Leal): Comments or questions?

Mr. Garfield Dunlop: More a comment as opposed to a question, and maybe you've got some detailed information on it. I want to point out to the parliamentary assistant that the Ontario sex offender registry is in my riding at the Ontario Provincial Police general headquarters, and I've been through it numerous times on tours and talked to people with presentations and such.

As soon as you bring Canada into it, if you talk to the experts at the sex offender registry or the policing community, they would like to see the national sex offender registry tightened up a lot and use Ontario's as the model for Canada. I've had one federal cabinet minister from the new government into those meetings. I just want to say that I think it's important that the government, through the ministry, work strongly with the federal government to try to tighten up some of those laws right across the country, because there are definitely loopholes. As soon as you start bringing the word "Canada" into a section of the bill, remember that—it's more of a heads-up than anything else—there are some issues around the national sex offender registry. It's our responsibility as parliamentarians to strengthen that as well, I think.

Mr. Peter Kormos: The Conservative critic prompts some consideration. Let's face it: The feds—and I'm not blaming any particular partisan government. Look at the gun registry. Do you want that type of efficiency, accuracy and completeness? I would hope not. It's a serious problem. The federal government has proven itself inept at developing registries. At the end of the day, they're very, very expensive.

Further to your question, and in sympathy and in support of that, I wonder if the government is prepared to indicate what types of discussions are taking place to create either an integrated—or, in other words, harmon-

izing this sort of thing. Because you've got harmonization and then you've got integration—or you've got relinquishment. The government has surrendered, for instance, some of its tax inspection revenue authority to the federal government. Is that accurate? Are there any discussions or are there any policy proposals around how you address the point raised by Mr. Dunlop?

Mr. Yasir Naqvi: Thank you both for raising valid points. I can tell you that the ministry is working closely with the federal counterparts on the issue of the sex offender registry to ensure that they work well together. At a technical level, there are discussions as well, in terms of making sure that the software which is used is aligned.

Of course, on our part, we will continue to make those strides to ensure that the federal sex offender registry is as meaningful and in depth in terms of its ambit as the provincial sex offender registry.

Mr. Garfield Dunlop: I think a lot of the expertise that could help you is from people who work in the Ontario sex offender registry. I'm not blaming this on the Liberals or the Conservatives in Ottawa. I just don't think the expertise that we have in Ontario is getting through to the federal government. I think if you can make a strong enough presentation to Stockwell Day—he's not soft on crime, like some of the previous ministers. I think there are some real opportunities there, with this government and the Ontario Legislature, to promote a stronger national sex offender registry.

The Vice-Chair (Mr. Jeff Leal): You're essentially saying that Ontario has the highest standard and we should evolve, federally, to that standard.

Mr. Garfield Dunlop: The policing community has told me that for some time. They like Christopher's Law. I think that there are opportunities on a national scale, because most of the provinces are not at that level.

Mr. Peter Kormos: I think Mr. Dunlop has a point, because, after all, the Dion Liberals in Ottawa have been supporting the Harper government at every opportunity. It seems to me that the Dion-Harper coalition should use this opportunity to work out a deal.

The Vice-Chair (Mr. Jeff Leal): I think that both Mr. Dunlop and Mr. Kormos make—

Interjections.

The Vice-Chair (Mr. Jeff Leal): The parliamentary assistant is duly noted. I know, under his leadership and with Mr. Bartolucci, that this is something that will be pursued with great vigour.

Mr. Yasir Naqvi: By my count, I think we're on motion number 12.

The Vice-Chair (Mr. Jeff Leal): We have to vote on this, Mr. Parliamentary Assistant. We want to follow step-by-step here.

All in favour of this amendment? Opposed? Carried.
Number 12.

Mr. Yasir Naqvi: I move that section 6 of the bill be amended by adding the following subsection to section 8 of the act:

"Same

"(1.3) Despite subsection (1), clause 3(1)(c.1) applies to every offender anywhere in Canada who changes his or her name on or after the day this subsection comes into force."

The Vice-Chair (Mr. Jeff Leal): Comments or questions?

Mr. Yasir Naqvi: This is basically saying that the amendment comes into force when the bill is proclaimed, vis-à-vis the amendment we passed dealing with those offenders who change their names, who have to register within 15 days, on the Sex Offender Registry, of changing their name.

Mr. Peter Kormos: It applies to an offender anywhere in Canada?

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Mr. Yasir Naqvi: Mr. Kormos, you have to remember that one of the clauses in Christopher's Law, clause 3(1)(d), requires that anybody who moves into Ontario, who resides in Ontario, once they move in, has to report within 15 days of residing in Ontario. So you couple that with the fact that anybody who's changed their name is under the same obligation, and we are catching those circumstances which you were alluding to earlier.

Mr. Peter Kormos: Maybe you can help. "Every offender, anywhere in Canada": Do you purport to have jurisdiction over "every offender, anywhere in Canada?"

Ms. Marnie Corbold: You have to read it with section 3 of the act, which says that the reporting obligations don't kick in until you're resident in Ontario. So it would actually apply to, I think it was, your scenario, where you had someone who changed their name perhaps five days before they left BC, then moved to Ontario. This would actually cover that in the sense that it applies to every offender. Sorry; now you've made me—

Mr. Peter Kormos: No, no. Regardless of where they effected the change of name?

Ms. Marnie Corbold: Yes, if the change of name occurred in BC and then they still come to Ontario before the—but it wouldn't matter, as we explained before, because when you're coming in you have to report within 15 days with the new name.

Mr. Peter Kormos: But I suppose—and maybe I'm quibbling. Then again, what do I know about this stuff? To every offender who changes his name anywhere in Canada: That's what you mean, right?

Ms. Marnie Corbold: Yes.

Mr. Peter Kormos: I understand. This is just hypergrammatical stuff, right?

Ms. Marnie Corbold: Yes. You have to read it in the full context of section 3.

Mr. Peter Kormos: But I'm just saying where that qualifying phrase is. We know what you mean. I'm being a stickler, and it's not worth spending any more time on.

Mr. Lou Rinaldi: Say it's not true.

The Vice-Chair (Mr. Jeff Leal): Anything further, Mr. Kormos?

Mr. Peter Kormos: Not at this point, Chair. What time is it, by the way?

The Vice-Chair (Mr. Jeff Leal): All in favour of this amendment? Carried.

Mr. Yasir Naqvi: Mr. Chair, I move that section 6 of the bill be amended by adding the following subsection to section 8 of the act:

“Same

“(1.4) Despite subsection (1) and section 7, and subject to any other reporting requirement under this act, this act applies to an offender anywhere in Canada who is, on or after the day this subsection comes into force, subject to an order in form 52 made under subsection 490.012 (2) of the Criminal Code (Canada) for as long as such order is in force.”

The Vice-Chair (Mr. Jeff Leal): Comments or questions? Mr. Dunlop, please.

Mr. Garfield Dunlop: Just a quick comment. I think I probably already know the answer to this, but with all the recent changes—I forget the legislation. Is it Bill 2 in Ottawa where they’ve made some—it was finally passed through the Senate here just a few weeks ago. Does this have any impact on that at all? They were toughening a lot of the laws. Is there any kind of impact on this? The Criminal Code—how would it affect this?

Ms. Marnie Corbold: Sorry? I’m not totally familiar with Bill C-2 just by the title. If you could shed some light, it might assist.

Mr. Garfield Dunlop: I’m sorry; it’s the bill that was put through the federal Parliament.

Ms. Marnie Corbold: The Senate one on the national defence piece, something like that, amending the sex offender registry?

Interjection: It was an omnibus bill, wasn’t it?

Mr. Garfield Dunlop: It was a bill that tied a bunch of crime bills together that had previously been debated before the throne speech. It came back, and there was controversy around the bill being held up at the Senate level. The Senate passed the bill. The bill had a number of—

Mr. Peter Kormos: There was a whole pile of stuff.

Mr. Garfield Dunlop: It had a lot of impact on the Criminal Code of Canada. I was wondering if there had been thought put into how our amendments would be affected by the Criminal Code—

Ms. Marnie Corbold: My understanding is, it’s not affecting the particular sections we’re referring to here.

Mr. Garfield Dunlop: Okay.

The Vice-Chair (Mr. Jeff Leal): Anything further? All in favour of the amendment? Carried.

Shall section 6, as amended, carry? Carried.

There are no amendments for section 7. Shall section 7 carry? Carried.

Section 8.

Mr. Yasir Naqvi: I move that clause 14(b) of the act, as set out in section 8 of the bill, be struck out and the following substituted:

“(b) prescribing additional information to be maintained in the sex offender registry and to be provided by offenders under section 3, by a police force under subsection 4(2) or by a correctional institution or youth

custody facility under section 4.1, or added to the sex offender registry under subsection 5(2).”

The Vice-Chair (Mr. Jeff Leal): Comments or questions?

All in favour of the amendment? Carried.

Shall section 8, as amended, carry? Carried.

Shall section 9 carry? Carried.

Shall section 10 carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 16, as amended, carry? Carried.

Shall I report the bill, as amended, to the House?

Mr. Kormos, please.

Mr. Peter Kormos: First of all, I want to thank the ministry staff for the materials. It makes it much easier for us to address these things when it’s put together in that fashion. I would respectfully ask that there be some consideration given, when the government comes forward with a package of amendments like this, if they could share the explanatory notes that the PA has with opposition members. Other parliamentary assistants have done that to great success and have earned some significant acclaim amongst their colleagues. It expedites things and things just move along much more smoothly, although today wasn’t particularly contentious.

I thank the parliamentary assistant for his thorough and exhaustive responses to the queries put to him. I want the minister to know that, once again, his parliamentary assistant is doing the heavy lifting. The minister stands up in the House on first reading and second reading and takes all the glory. But when the screw-ups are exposed after scrutiny by bureaucrats—because, Lord knows, if it weren’t for the bureaucrats, this stuff would slide through here and we’d end up with even bigger messes than we have—it’s the parliamentary assistant who’s sent in to do the cleanup, the dirty work and the heavy lifting. He makes nowhere near as much as the minister does, nor does he get anywhere near as much publicity, although I suspect that in his hometown paper, Ottawa being a mid-sized city, he does reasonably well with the occasional press release and government announcement.

So I want the minister to know that his parliamentary assistant, in perhaps his first bill or the carriage of his first bill, has served his minister well. It can be a challenging task. His colleague Mr. Zimmer will tell him that. Sometimes the lifting gets heavier and heavier. Sometimes the lifting is hernia-generating. Sometimes the lifting is Sisyphean. It is, isn’t it, Mr. Zimmer?

Mr. David Zimmer: Sisyphean.

Mr. Peter Kormos: Mr. Zimmer identifies with that reference.

I simply want to state again that we’ll be speaking to this on third reading. I don’t expect that there will be a whole lot of debate, although I’m sure people will want to address the matter. I’m not going to engage in the classic debate, although I do thank legislative research for putting the material together. I am familiar with some of it, but some of it is new to me and it’s valuable stuff.

I encourage people to read it because there is the, again, false sense of security that can be created by this

type of legislation. This type of legislation is but one tool, and a very, very limited one, quite frankly. Even the most generous supporters of it will acknowledge that. It's a very, very limited tool because it's more noticeable in terms of the weaknesses than it is in terms of the strengths. Again, without the co-operation of the federal government and without the provincial government being able to engage a computer design firm that is somebody other than Andersen or similar fraud artists—well, it's true. These sorts of things will never get off the ground.

The Vice-Chair (Mr. Jeff Leal): I think the company was Accenture.

Mr. Peter Kormos: Andersen became Accenture; that's right. If we're going to slander somebody, let's do it properly, right, Mr. Leal? Except it's not slander, because it's true.

Again, there are some serious flaws. I really do believe that communities have a right, families have a right, to protect their kids. Women have a right to protect themselves. That's why I have some ambivalence about a sex offender registry that is private or that is accessible only to police officers. But at the same time I understand the concern about, let's say, vigilantism, the concern about misidentifying people and the crises and tragedies that can occur there, which takes us to the whole issue of what happens to sex offenders when they're released back into the community.

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At the provincial level, we should be even more concerned because, as I say, our sentences are two years less a day or less. These people come back into the community. And although this might attract the wrath of some—and I'm not about to echo judges who rank sexual assaults on a scale of one to 10; that's a very dangerous exercise, and we've seen judges suffer as a result of doing that—it seems to me there's a marked difference between—and, again, maybe this is not a very good example—an immature teenager who does some inappropriate touching with somebody his own age in a context where young people are socializing and where their sexual growth is still developing. Again, it may well be sexual assault, and there are convictions for sexual assault in those contexts, but those people end up on a sex offender registry. Understand that.

I made reference in the Legislature—I recently read some of the history in California, one of the first jurisdictions in North America, if not the first, to develop a sex offender registry, scarlet-letter laws. The targets of that back in the 1930s and 1940s were gays and lesbians who were arrested as found-ins in bars, because it was illegal to dance with each other, etc. So they then became sex offenders, and because of the first sex offender registry in North America, I believe it was, were literally marked for the rest of their lives well into the 1960s and 1970s, when there began to be dramatic changes in perspectives toward gay and lesbian sexuality. So, as I say, I make a marked distinction.

At the same time, how does a community protect itself against a pedophile who's released from custody, who's

going to live somewhere? I think the Miami Herald had some coverage of a community of sex offenders who literally live in tents under some of the skyways in Miami because the courts have forbidden these sex offenders—this is again a horrible Catch-22; check the Miami Herald over the last week and a half—to live in any number of neighbourhoods. So their parole officers and other supervisors are actually encouraging them to live in tent cities under the skyways, the way homeless people often gather in little tent cities.

One has very little sympathy for the offender and his or her propensity or likelihood of repeating a crime, but, at the same time, if we're really going to protect our community, we don't exile sex offenders to places where they can't be supervised and controlled, and I don't mean controlled necessarily in a physical sense. We're not talking about jailing any more.

That means we've got to restore some of the post-custody housing situations. We all get phone calls, if there's a media report about a notorious sex offender being sited somewhere, because they're publicized, and then finding out that they live in a cheap hotel or motel room a block away from an elementary school. That's scary stuff. It's scary stuff for parents. It's scary stuff for us as legislators or for anybody in a position of leadership. But we've got to then decide whether we're going to invest money in providing secure and appropriately located places for these people to live in a supervised way.

In my view, we've also got to give the courts the opportunity to impose lengthier periods—and that's not a provincial jurisdiction—of post-custody supervision, because once a sentence is served, unless you're declared any one of those degrees of dangerous offender, it's, "So long, it's been good to know you."

We heard the former Attorney General huff and puff about how he was going to get section 743—is that the old section, Mr. Zimmer?—the restraining order, against a notorious sex offender, or at least how he was going to support the Quebec authorities. He was going to get this condition and that condition and that condition. She had already served her sentence and was out in the community. Well, the Attorney General of the day learned very quickly that all that huffing and puffing didn't make a whole lot of impact when it came to a judge interpreting the actual Criminal Code provisions. It came to naught.

We have a serious, serious problem. We have a serious problem with youthful sex offenders, and I'm talking about youthful pedophiles and rapists. The absence of mental health treatment facilities for adolescents is critical. It seems to me that if we're going to treat these types of assaults on people in our community seriously—upon kids, upon women, upon men—we've also got to treat the disorder, the perversion, seriously. That means we've got to invest in adolescent mental health treatment.

First of all, young offenders aren't covered by the legislation, by the sex offender registry. Secondly, a young offender's sentence of a year or a year and a half for sexual assault—at the end of the day, big deal. You're

in, you're out and nothing's been done to make any effort to address the hard-wiring that results in that type of very dangerous, sexual, predatory and assaultive behaviour.

Again, I don't care what riding you're in; you all know darned well that there isn't a place in this province where the families don't have concerns about the lack of treatment and psychiatric beds for adolescents. That means we've got the bizarre circumstance—and I suspect it's happened in all of our communities, in all of our ridings—where you've got teenagers being put into adult psychiatric wards with all the risks inherent in there. You've also got the horrible phenomenon of mentally ill people in prison. Again, that's not an uncommon story.

While we support this legislation, we also say that the government, if it's going to have a broad-based approach to protecting people in their community, might want to add the right for the public to know. We have the notorious Jane Doe case in Toronto. Jane Doe has since revealed her identity to the public. You recall Jane Doe. She sued the Toronto Police Service for the police service not notifying people in a particular neighbourhood about a serial rapist in that neighbourhood; she was then the victim of rape. While the case was never litigated, the Toronto Police Services Board settled with a substantial cash settlement, their lawyers clearly acknowledging that they would be at some risk of significant liability. The court, it was presumed, would have said that that woman had a right to know. How, then, do we address families' right to know when a sex offender is in their midst? Again, I'm not advocating vigilantism, but how do we address the right of families to know? Families have a right to know. Parents have a right to know. Parents have a right to be able to tell their kid "No, I don't think so" when Mr. So-and-So asks them to cut his lawn, end of story, without creating trauma and debilitating fear.

So, there's still one more stage to go, and that is, in a context or in a way that's suitable in a free, liberal, open and democratic society, how you give families, parents and neighbourhoods the right to know when dangers are in their midst. Newspapers don't report every crime and not everybody reads every report of every conviction. That still remains a significant challenge.

Mr. Garfield Dunlop: I just wanted to, first of all, put on record at the end—I'm not going to take as much time as Mr. Kormos did—that we thank the Auditor General for pointing out some of the problems with Christopher's Law. I thank the parliamentary assistant and the government for the bill. As I said earlier, we'll be supporting it.

This is a bill that our party was very, very proud of in the past because at the time, back in 2000-01, when it was brought in as a piece of legislation here in this Parliament, it was the first of its kind in the country. There were some people who were critical of it at the time,

thinking that it might not work, but we think there's been a lot of success with it. It's something that, as I mentioned earlier in our comments, we can build on for the future with our federal partners to help other provinces across our country. For that reason, I wanted to point out that we are proud and thank them. I look forward to the amendments being passed and the bill being passed and implemented to help other people.

I did want to point out, though, that your next bill, Bill 50, won't be quite as easy. We've got some real problems with the zoo bill. We're getting a lot of negative feedback from the rural community, farmers and the Ontario Federation of Anglers and Hunters, so we'll have a lot of amendments to that bill when it comes forward.

Mr. Peter Kormos: We'll have to travel to some rural parts of Ontario.

Mr. Garfield Dunlop: There's no question that we'll have to travel for that bill.

The Vice-Chair (Mr. Jeff Leal): There's no question that this is a very important bill. I'm the father of a 10-year-old and an eight-year-old, and my wife is a vice-principal. It's interesting how often this issue now gets discussed within families and communities and schools—to really have in place legislation that protects children, because society has changed dramatically since I was a young guy. This is something that does get a lot of discussion now within school councils and generally when people get together to socialize. It's important stuff.

Mr. Yasir Naqvi: First of all, I wanted to thank all the members of the committee for making my first experience on a bill a learning one, so thank you very much—and I'm sure Mr. Kormos has more to come as we work out a working relationship. Particularly, I want to thank the ministry staff for their help during this whole process.

I also want to take this advantage to highlight the great work that members of OPP force and local police services do. This is an important tool for them in terms of investigation, to ensure that we do undermine offences of a sexual nature in our community. Obviously, they use this tool every day, and I'm sure that they really will much appreciate the strengthening of this legislation through this amendment.

The Vice-Chair (Mr. Jeff Leal): I just want to note that research has provided some extensive background on this issue. So I recommend that people go through it when they get the opportunity.

One last thing: Shall I report the bill, as amended, to the House? Carried.

Thank you very much for everybody's co-operation this morning.

The committee adjourned at 1111.

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Official Report of Debates (Hansard)

Thursday 5 June 2008

Journal des débats (Hansard)

Jeudi 5 juin 2008

Standing Committee on Justice Policy

Highway Traffic Amendment Act
(Speed-limiting Systems), 2008

Comité permanent de la justice

Loi de 2008 modifiant
le Code de la route
(systèmes limiteurs de vitesse)

Chair: Lorenzo Berardinetti
Clerk: Susan Sourial

Président : Lorenzo Berardinetti
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
JUSTICE POLICYCOMITÉ PERMANENT
DE LA JUSTICE

Thursday 5 June 2008

Jeudi 5 juin 2008

*The committee met at 0902 in room 1.*HIGHWAY TRAFFIC AMENDMENT ACT
(SPEED-LIMITING SYSTEMS), 2008LOI DE 2008 MODIFIANT
LE CODE DE LA ROUTE
(SYSTÈMES LIMITEURS DE VITESSE)

Consideration of Bill 41, An Act to amend the Highway Traffic Act in relation to the use of speed-limiting systems in commercial motor vehicles / Projet de loi 41, Loi modifiant le Code de la route relativement à l'utilisation de systèmes limiteurs de vitesse dans les véhicules utilitaires.

The Vice-Chair (Mr. Jeff Leal): We'll bring this meeting of the Standing Committee on Justice Policy to order. We're here today to hear representations on Bill 41, An Act to amend the Highway Traffic Act in relation to the use of speed-limiting systems in commercial motor vehicles in the province of Ontario. Presentations will be limited to 10 minutes, and if there's time left over in the 10-minute frame, we will have time for questions from the three parties represented here.

SUBCOMMITTEE REPORT

The Vice-Chair (Mr. Jeff Leal): The first order of business is a report of the subcommittee on committee business. Mr. Brown, please?

Mr. Michael A. Brown: I move the minutes of the subcommittee of Friday, May 30, 2008:

(1) That the committee hold one day of public hearings at Queen's Park on Thursday, June 5, 2008.

(2) That, where possible, conference calls be scheduled in the morning and in-person presentations be scheduled in the afternoon of Thursday, June 5, 2008.

(3) That the committee clerk post a notice regarding the committee's business on the Ontario parliamentary channel and the committee's website.

(4) That the committee clerk send a notice regarding the committee's business to the list of stakeholders prepared by the research officer, as well as to the subcommittee members.

(5) That interested people who wish to be considered to make an oral presentation on Bill 41 should contact the committee clerk by 12 noon, Tuesday, June 3, 2008.

(6) That on Tuesday, June 3, 2008, the committee clerk provide the subcommittee members with a list of all requests to appear. This list is to be sent electronically.

(7) That, if required, each of the subcommittee members provide the committee clerk with a prioritized list of names of witnesses they would like to hear from by 3 p.m., Tuesday, June 3, 2008, and that these witnesses must be selected from the original list distributed by the committee clerk to the subcommittee members.

(8) That the committee clerk, in consultation with the Chair, be authorized to schedule witnesses from the prioritized lists provided by each of the subcommittee members.

(9) That if all groups can be scheduled, the committee clerk, in consultation with the Chair, be authorized to schedule all interested parties and, if necessary (due to the number of requests), be authorized, in consultation with the Chair, to start the committee meeting at 8 a.m.

(10) That groups be offered 10 minutes in which to make a presentation.

(11) That the research officer provide the committee with research on other jurisdictions in Canada and the United States that have speed-limiting requirements.

(12) That the deadline for written submissions be 5 p.m., Thursday, June 5, 2008.

(13) That the research officer prepare a summary of the recommendations heard.

(14) That the deadline (for administrative purposes) for filing amendments be 1 p.m., Wednesday, June 11, 2008.

(15) That the committee hold one day of clause-by-clause consideration on Thursday, June 12, 2008.

(16) That the clerk of the committee, in consultation with the Chair, be authorized, prior to the passage of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

The Vice-Chair (Mr. Jeff Leal): Thank you, Mr. Brown. Comments or questions? All in favour? Carried.

LIBERTY LINEHAUL

The Vice-Chair (Mr. Jeff Leal): We'll now move to our first presenter, Liberty Linehaul, Inc., Mr. Brian Taylor, president. It's a conference call.

Proceed, Mr. Taylor.

Mr. Brian Taylor: Good morning, Chairperson and panel. It's Brian Taylor calling from Liberty Linehaul, Ayr, Ontario. We have a trucking operation in Ontario with 54 trucks. Approximately 30% of those are owner-operators, and we have 17 trucks domiciled in California as part of our American subsidiary.

My background in this industry is that I started as a mechanic. I drove a truck across North America for different companies, and I progressed to being an owner-operator and worked with my own truck for several cross-border operations. I've been running this operation here, my own company, for 20 years now, primarily in a management role.

We currently limit our trucks to a speed of 110 and now are reducing that to 105. Our company speed policy is 100 kilometres with five kilometres available for passing. I feel somewhat embarrassed, actually, that it's taken this current economic climate and fuel pricing to motivate us to be more diligent in our efforts to conserve fuel. It's obviously, at this point, imperative for our survival to reduce our fuel costs.

I know that most companies when changing the speed will get some pushback especially from owner-operators. In the past, I've talked to my owner-operators and forced them to slow down. At that time, a few years ago, it was primarily because of safety, but what astonished me is that three months later they came back to my office and were there to thank me as they were saving approximately \$1,000 worth of fuel a month, which was a great surprise to them. That was a few years ago, obviously, when fuel was 30% of its current price.

I've heard the argument that reduced speed will jeopardize delivery times. Our company does a lot of critical appointment and expedited shipments to points across Canada and the United States. One of our primary lanes is California. We run about 20 trucks a week out there, so a lot of it is less-than-truckload, time-sensitive shipments. We seem to meet those time requirements very efficiently. This requires dispatch coordination, obviously, customer education and co-operation, but at no time should a driver be expected to make up for a lack of planning by using excessive speed to meet schedules. That's happened in our industry for far too long, and this may finally be the catalyst for change that will improve the drivers' work expectations.

I've run the trip to California as recently as a few months ago myself, which I don't do very often. With the traffic congestion and volume, it's much more relaxing and less stressful for a driver to let traffic pass him, and the flow moving away from his vehicle helps him to manage proper space.

Our industry struggles to attract young people—or any people, for that matter. I believe that with a speed policy we will see more lane discipline, better vehicle control, fewer accidents and an improved reputation in the public's eye. This will also translate into reduced insurance costs and accident severity and frequency. There are numerous other savings in reducing speed such as tire wear, brake wear and various other moving parts that sustain less abuse.

I believe that Bill 41, the amendment to the Highway Traffic Act through the use of speed limiters on commercial vehicles, is a win-win solution for all parties. I believe that the people resistant to this change will be won over in time with the fuel savings and reduced insurance and accident costs, as well as the new-found respect of the general public when operating responsibly. Like a lot of changes and benefits, they're not always apparent to everyone, especially to those who work so close to the problem.

0910

That's all I have. Thank you for your time. Are there any questions I can answer for anybody?

The Vice-Chair (Mr. Jeff Leal): Thank you very much, Mr. Taylor. We do have some time for some questions. In round one, we'll have the official opposition, the third party, and then the government. Mr. Klees.

Mr. Frank Klees: How much time do we have?

The Vice-Chair (Mr. Jeff Leal): We have about five minutes—six minutes.

Mr. Frank Klees: Each?

The Vice-Chair (Mr. Jeff Leal): No, collectively. We want to get as many questions in as we can.

Mr. Frank Klees: Mr. Taylor, thank you very much for your submission. I have a very quick question for you with regard to the suggestion by some in your industry that to limit the speed through a speed limiter, there are some inherent safety issues, whether it comes to the ability to avoid collision or other aspects of unexpected things that might happen in the course of being on the road. What is your response to that?

Mr. Brian Taylor: I think it's nonsense, to be honest with you. I don't think that driving a vehicle faster helps you avoid any circumstances. I know that there have been some issues; there are some problems that people talk about—speed disparity between cars and trucks. I think that's also nonsense. There's good science to support—in some of the US states, when they had the 55-mile-an-hour speed limit, the frequency of those types of accidents or incidents didn't increase. We've done a lot of homework on this, as I say, from my involvement with OTA. We did a lot of research and we read a lot of stuff on what other states and provinces have experienced, but through my own experience in our speeds—some of the safest fleets on the highways today run at those speeds.

Mr. Frank Klees: Mr. Taylor, from a practical standpoint, I think we've all been in circumstances on the road in our cars when something happens and you actually have to speed up in order to avoid someone coming into your lane of traffic. Are you saying that that is not an issue and that trucks don't experience that circumstance? It's not enough to just say that it's not an issue. I'd like to have an explanation as to why those who claim that it is necessary to have the ability to speed up to avoid a collision—why is that not the case?

Mr. Brian Taylor: Most of that happens, in my estimation, if you're on a three-lane highway going into the city of Toronto, for instance, and a car was approaching in a lane, coming in on an on-ramp or coming off the

shoulder or an emergency vehicle coming off—a lot of times that's from a guy driving too quickly and not paying attention to what he's doing. If you're managing your speed and you've got lane discipline and you're in that right lane, you have all kinds of time to foresee those situations happening, and if you're looking far enough in advance and you move over one lane to allow that to happen in front of you, there's no reason for sudden and immediate movements. I can see that you need to have avoidance or you need to change lanes, but the idea that you need speed to do that—I've never, ever experienced that. I've driven almost a million miles in a tractor-trailer, so it's not that I'm talking from strictly a management perspective here. I've never experienced any time that I've ever needed speed to avoid a collision.

Mr. Frank Klees: Thank you.

The Vice-Chair (Mr. Jeff Leal): Mr. Miller, please?

Mr. Paul Miller: Thanks very much. One of the main problems of the independent owner-operators is they're telling us that it's going to affect their income because of arrival times and departure times. You seem to have indicated that you don't feel that that will be a problem for the individual truck owners, that time is of the essence for them to deliver and pick up new loads from destinations—once they drop a load, they pick up a load and go somewhere else. You don't feel that that's a problem?

Mr. Brian Taylor: No. I don't know if any of you have ever tried that in your car, but try going on an hour-long trip and speed five or six or eight miles an hour over that speed limit and see how much difference it makes in time. We're talking about very little difference in time. Like I said in my submission, I think that lack of planning by a company or by a shipper as to when they ship products and when their expectation is—that needs to change in our industry. The driver shouldn't be expected to speed.

Their income absolutely will be affected: It will be increased dramatically. Anybody running 70 miles an hour today as opposed to running 62 miles an hour in our fleet here, in a team operation run in California at 225,000 miles a year, will likely be ahead \$35,000 a year, net income, if they would slow down eight miles an hour.

It's drastic; fuel has become the number one cost that we have in our industry. This is almost a non-argumentative issue right now, because anyone who's not going to slow down isn't going to be here in the next few months anyway, right? This law is almost too late, from the other perspective of our reputation and our industry's reputation and other factors of safety. But from a fuel perspective and a cost perspective, it's going to be a lot more beneficial for those people to slow down.

It's a big adjustment for somebody to go through. But, like I said, I really think that once this goes through and they have a couple of months to manage it, they'll find that it's a lot better world out there for them.

Mr. Paul Miller: Has your organization, as well as the independent operators, had the ability to study the program called Tacho in Europe? Have they ever taken a

look at that? They monitor trucks all over Europe. They have actually monitored police that check the trucks. Have you ever looked at the success or fallbacks of that program?

Mr. Brian Taylor: The OTA sent a group of people to Europe and talked to a bunch of different representatives in the trucking industry—drivers, owner-operators, truck owners—and different countries' departments of transport and the minister for the EU. They talked to a lot of different people about their program. They've got a very strict program on speed—tachometer graphs that they monitor hours and service and speed on. So they're very diligent with their speed program. The biggest comment that I heard back from that is that they had the same issues that we had and the same cowboys that we had on the road a few years ago. Once they changed their program and created the discipline, it was far better. Most of the people they talked to, whether they were a driver, owner-operator or a company owner, agreed that the industry there today, after 20 years of speed limiters or however long it's been—it's been a long period there—is a far better industry than it was when they had the less discipline that we do here at this present time.

Mr. Paul Miller: Thank you.

The Vice-Chair (Mr. Jeff Leal): You've got about one minute. Is there a question from the government? Mr. Brown, please.

Mr. Michael A. Brown: Just quickly: I appreciate your presentation, Mr. Taylor. I particularly appreciate the fact that you've done it all: You've worked for truckers, you've been an owner-operator and you are operating your own fleet.

Maybe you can expand on the just-in-time-delivery issue. We've had a number of people talk about that as it pertains to crossing the border into the US, for example. You do that, so maybe you can tell us about it.

Mr. Brian Taylor: You know what? I think that there are things that happen during the trip, like getting delayed at the border—which is an ongoing issue for us—or traffic congestion and things like that. But the idea that you can make that up with speed is utter nonsense. It's just not possible. If you take a trip that's eight hours to Chicago at seven miles an hour more, the argument is that that's 56 miles and you could be there an hour earlier. But the reality of that is, it just doesn't happen.

I've run a trip all the way from California at 62 miles an hour and had the same truck pass me nine times. When I cleared the Ambassador Bridge and came through customs, he was coming over the bridge behind me. I've seen that hundreds and hundreds of times. The problem with speed on long-distance trips or a lot of trips is that the guys who are running that speed get tired. It's an aggressive way to drive, it's tiring and they tend to stop more. The idea that they can make up more time with speed just isn't there. If there's a marginal amount of time that they can make up, they shouldn't be expected to do that because they're jeopardizing safety and their

fuel costs are extremely high. There are a lot of things that they're doing to create that time, but on the other side, I don't think that—

The Vice-Chair (Mr. Jeff Leal): Thanks so much, Mr. Taylor. We appreciate you being with us today. We have to move on to our next deputant. Have a good day, sir. Thanks for being with us.

Mr. Brian Taylor: Thank you very much.

ONTARIO SAFETY LEAGUE

The Vice-Chair (Mr. Jeff Leal): Next, I'd like to call Mr. Brian Patterson from the Ontario Safety League. Mr. Patterson, please.

If you could identify yourself for the sake of Hansard. You will have 10 minutes. Any time not used by your presentation will be left for questions. Welcome; good to have you with us this morning, sir.

Mr. Brian Patterson: It's Brian Patterson. I'm the president and general manager of the Ontario Safety League. As many members of this committee know, the Ontario Safety League has been actively engaged in safety matters in this province for 95 years. The OSL is dedicated to eliminating preventable death, injury and loss in Ontario through education, partnerships and promotion of safety advocacy. It is in that capacity that I speak to you here today.

0920

I will not likely be using up my entire time slot because I really only have three messages for you. One: This is excellent legislation for this province. It will save lives. I believe, even as it is being discussed, that the dialogue is moving towards safety on our roads and for better use of technology in producing that safe envelope on the highways. Education is key.

You will hear deputants today from across the spectrum. I want to make it clear that our constituency is safety. Our only constituency has been public safety and we only speak to the government on issues of safety. We have been at times very critical of legislation that isn't safe. So for us to endorse this legislation, you can rest assured that we've given it a very good review and counsel.

I want you to know that we really consider the fact that speed kills an axiom that has been lost on many Ontarians. Simply adding the 120-kilometre argument that you may hear from some in these presentations, or that the speed differential is the key element that you should consider, I would say to you, that is not the case. We want to be able to create a safe operating envelope for commercial vehicles on the highway.

In my line of work we see many corporations that have embraced safety as part of their regulations, how they operate. They are pillars of their corporate philosophy in this province. In fact, we identified two this year for their sustained commitment to safety and education.

I want you to understand that from our perspective, any vehicle going 100 kilometres an hour—taking an average tractor-trailer—is travelling about 88 feet per

second. When you allow the perceptive distance to take effect—that is, the distance you see that you have to brake, the reaction time to move the foot to the brake pedal, brake lag for the brake to engage—you have travelled 180 feet. On top of that, it's going to take you 347 feet to come to a stop. Unfortunately, I spent part of yesterday on the 400-series highway north of Highway 88. A vehicle did not have sufficient stopping time, and we have a fatality to be dealt with by a family in Ontario.

This is not the only answer, but you will know, from the safety league's perspective, that we take safety in this province in increments. We get people into a better frame of mind, we get them a better understanding of what's required, and this legislation will do that.

We have essentially two concerns. I know that some members of the committee will know that there's no perfect legislation. So I'll give you the two points that I would like you to seriously ponder as you go forward.

One is the minimum fine in this case. We'd like to see the minimum fine somewhere in the range of 10% of the maximum fine. In our respectful submission, \$250 may not be sufficient, and some consideration ought to be given to that initial piece of the enforcement pie. It doesn't follow a philosophy that has developed over time: that the minimum fine should somehow be in relation to the maximum fine. I would submit to the committee that looking at something in that 10% range is there.

Secondly, I would like you to acknowledge that this is legislation that is driven from the stakeholders in the trucking community, which showed incredible leadership by its leaders at the Ontario Trucking Association. When we first saw this draft legislation, we were as pleased as we are to tell you about it today. We found only one shortfall that we think you may be able to either consider in the future or consider at this point in time, and that is motor coaches on the highway, or, as the media liked to dub them during the discussion on speed limiters, the Rama rockets.

As someone who travels the 400-series highways every day, in and out of Toronto, I would tell you that we believe the technology exists to extend this legislation to those vehicles which have similar dynamics on the highway and similar issues. But you are clearly leading and acknowledging the work of safety practitioners in this province by bringing this legislation forward.

The Vice-Chair (Mr. Jeff Leal): Thanks so much, Mr. Patterson. On round two, we'll start with the government. If time permits, we'll go to the official opposition and then the third party. I use the clock up here, not Peterborough time, so we've got about five minutes. Peterborough time tends to be a little faster.

Mr. Michael A. Brown: Thank you, Mr. Patterson, for appearing. We see you on television and other places talking about safety. Overall, I get the drift that you are very supportive of this legislation. I'm interested in your comment about the fine level, the minimum fine being 10% of the max. I'm not familiar with that.

Mr. Brian Patterson: It's currently sitting at \$250. We'd like to see it upped so that it doesn't allow for some to consider it to be economically acceptable to potentially get a ticket under these circumstances.

I think we have the enforcement tools on the 400-series highways now to deal with the enforcement. I can tell you, police officers are put at risk to pull over some of these big rigs and to find a safe location etc. I don't think it's a situation where the driver would be unaware. It's just a suggestion, but I think a sturdier slap at the beginning may be a warmer wake-up call.

Mr. Michael A. Brown: I think you make a good point that enforcement is important, and now that the aircraft is there, it provides some protection for the police officers to do their work without the kind of danger they sometimes put themselves into.

The Vice-Chair (Mr. Jeff Leal): We have about two minutes. Mr. Klees, please.

Mr. Frank Klees: Thank you, Brian, for your presentation. I have a quick question for you. Your focus, obviously, is safety. Of the total number of collisions on Ontario's highways, what percentage involve trucks or other commercial vehicles? Would you have that number?

Mr. Brian Patterson: I haven't got that on hand, but I can get it to you. The biggest problem is that the statistical use of the information is often difficult. In fact, in these cases, when we're talking about slowing vehicles down possibly 15 kilometres an hour, we may turn a number of fatalities into near-misses. It's that type of involvement.

I can tell you that private motor vehicles are more likely to be involved in crashes, and they're often the cause of some commercial crashes.

Mr. Frank Klees: Precisely. We have with us today Debbie Virgoe, who unfortunately can attest to that. If we're going to take this reasoning to its logical end and if safety is the key, the logical conclusion, I would think, would be that if speed limiters are good for trucks or commercial vehicles, they're probably good for passenger vehicles too.

Mr. Brian Patterson: Absolutely. As we presented at the last hearing here, we think this is a technological move that's going to have some long-term benefits. As many members know, when we proposed the 50-kilometre suspension and vehicle seizure, we weren't even sure how many people were acting that disruptively, and now we know. I would say that this is definitely going in the right direction, but it is leadership and it's step number one, I think.

The Vice-Chair (Mr. Jeff Leal): Thanks very much.

Mr. Frank Klees: Just one last question.

The Vice-Chair (Mr. Jeff Leal): Quickly, Mr. Klees. Very quickly.

Mr. Frank Klees: With regard to your comment about motor coaches, I absolutely agree with you. We will be presenting an amendment to bring motor coaches into this legislation. I think you've made that point. I trust the government is listening. While some may think

this is perfect legislation as it is, we happen to think we can improve it, and that's why we're here in committee.

The Vice-Chair (Mr. Jeff Leal): Thank you very much Mr. Patterson.

0930

TRUCK MANUFACTURERS ASSOCIATION

The Vice-Chair (Mr. Jeff Leal): Next, we have Mr. Clarke, president of the Truck Manufacturers Association, on a conference call. Mr. Clarke.

Mr. Robert Clarke: Yes, good morning.

The Vice-Chair (Mr. Jeff Leal): For the sake of Hansard, sir, could you just identify yourself?

Mr. Robert Clarke: Yes. My name is Robert Clarke. I'm the president of the Truck Manufacturers Association. We're based here in Washington, DC.

The Vice-Chair (Mr. Jeff Leal): You have 10 minutes, sir, and any time left over, we'll have some questions. Proceed, sir.

Mr. Robert Clarke: Fine. Our comments are few, and hopefully—I would simply start off by saying that we recognize the benefits to traffic safety and fuel economy of vehicles travelling at reasonable speeds and similar speeds on highways. We have submitted an extensive amount of information to the clerk. I hope that all of you have had a chance to get that and look at it. Almost all of it has focused on some of the technical issues surrounding how these systems work and function.

I think all of you probably know that the speed limit or function is a programmable option on all of the products that we build now and that significant numbers of fleets already use this feature to voluntarily limit the speed at which their vehicles can be operated. Most of our concerns early on with proposals that were put forward, both here and the US, or at least suggested here in the US and in Canada, focused on questions of tamper-proof or tamper-resistance, with implied requirements on manufacturers to ensure that they were either tamper-proof or tamper-resistant. We attempted to submit information describing how the systems work and the limits and capabilities in that respect, as to how tamper-proof or tamper-resistant they were.

I hope you have that information in front of you. If you have any questions about any of it, I'll be happy to try and answer them for you.

The Vice-Chair (Mr. Jeff Leal): Thanks very much, Mr. Clarke. We have about eight minutes for questions on this round. The third party, Mr. Miller, please; you're first up.

Mr. Paul Miller: I'd just like to ask you: What happens when trucks go to the US jurisdictions with much higher speed limits and speed limiters can't be turned off? Will these trucks impede flows in various states? Are you looking at uniform laws for speed in the US, so that this would become more effective with this type of legislation?

Mr. Robert Clarke: I think that issue has been suggested by some. We don't really have a position on

that. Our focus has been on the technical issues of how these systems work and so forth. I am not aware of any legislative efforts at this point to have a national speed limit set in the US, although it has been suggested by some.

Mr. Paul Miller: In your opinion, with your experience, do you feel that, with the speed limiters, this is going to affect the flow of the traffic—never mind the laws, but the actual flow of the traffic—once you cross from Canada into the US, with our trucks being limited? Is that going to have a negative effect on—are drivers going to be on the bumpers of the Canadian truck drivers because they're moving too slow?

Mr. Robert Clarke: There are a number of studies that have been put out by the traffic operations communities of the various highway departments, I'm sure both in Canada and here in the US, talking about speed differentials. To the extent that there are significant differentials between the speeds of vehicles, in some cases, if it's extremely high—in other words, a 30-, 40-miles-an-hour difference, or a 20-miles-an-hour difference—you can get into some safety concerns with vehicles running up on each other. I assume that that would have some traffic flow consequences as well, but I'm not an expert on that subject.

Mr. Paul Miller: Mr. Chairman, that's it for now. I'd like to make sure that everybody gets a chance, unlike the last round. I'll give up some of my time—

The Vice-Chair (Mr. Jeff Leal): We'll try to keep moving as best we can, Mr. Miller.

Mr. Rinaldi, please.

Mr. Lou Rinaldi: Thank you, Mr. Clarke. I guess I wanted to question more on a technical basis. What we've heard up to now, and some submissions that we've had, reflect on safety and on fuel usage as we lower the speed—well, not lower, but control the speeds. Obviously, especially with today's fuel prices, it makes a difference.

But can you tell me, though, beyond that—we also know—and I have some background in the automotive sector, although not in the trucking industry—that the higher speeds that one might want to try are also more detrimental to the actual equipment, the mechanical parts. As we know, the more we try to get out of an engine, the more it costs in the long run. Can you verify that? Do you have any statistics?

Mr. Robert Clarke: Truck operators are very sophisticated buyers, and trucks are highly tailored devices that are used by businesses for the locational application in which they are intended to be used. If vehicles are specified correctly in terms of tire sizes and drivetrain gear ratios and so forth, they are capable of travelling at whatever legal posted speed limits the vehicle will be operating in and can be very, very efficient and so forth at those speeds. But they have to be spec'd properly, so to speak, to operate at those speeds.

Mr. Lou Rinaldi: Thank you very much. I don't have any further questions, Mr. Chair.

The Vice-Chair (Mr. Jeff Leal): Mr. Klees, please.

Mr. Frank Klees: Yes, thank you for your presentation. Could you comment on the cost of installation of a limiter? First of all, I understand that all of the new production includes limiters. Is that correct?

Mr. Robert Clarke: The speed-limiter function is a programmable variable in what they call the engine control module. All modern diesel engines have essentially a computer that monitors all aspects of how the engine and drivetrain are performing. Principal among that too is also emissions control, but the speed-limiter function is one of those features that's essentially inside that computer. It can be programmed or not at the factory and set, depending on the specifics of the drivetrain components and so forth, for whatever speed the owner chooses to have it set at—

Mr. Frank Klees: Okay, and with regard to trucks that are older and don't have that computer installation, what would the cost be, in your estimate, to have a limiter installed in those vehicles?

Mr. Robert Clarke: Modern trucks from about 1992, and certainly by 1994 and forward, have this feature on them. Vehicles that are older than that probably don't have it. I can't say how many of those kinds of vehicles are out there, and I don't have a good feel for what kind of device could be installed on vehicles of that age.

Mr. Frank Klees: So if that's the case, does it make sense, then, that there be a grandfathering of vehicles that don't have the capacity to simply reprogram it, in your opinion?

Mr. Robert Clarke: You'd have to get some information from some folks who knew how to speed-limit the pre-1992, -1994 vintage vehicles and make a judgment on that basis.

Mr. Frank Klees: Thank you.

The Vice-Chair (Mr. Jeff Leal): Is that something, Mr. Klees, you'd like the research officer to track down?

Mr. Frank Klees: Yes. Actually, I have a couple of items I'd like the research office to look into, that being one of them. I'd like to get a sense of—if it's possible; I'm sure maybe the trucking association or others have that kind of information available—the age of vehicles on the road today that are being used, and if we could get some numbers in terms of what installation costs would be for those vehicles that aren't set up for it, if I can use that term.

The Vice-Chair (Mr. Jeff Leal): Mr. McNaught has taken note there.

Mr. Michael A. Brown: Mr. Klees, it is the intention of the government to exempt all trucks that have been manufactured before 1995.

Mr. Frank Klees: And you're willing to put that into legislation?

Mr. Michael A. Brown: We intend to do it through regulation.

The Vice-Chair (Mr. Jeff Leal): Thanks very much, Mr. Clarke. Have a good day, sir.

Mr. Robert Clarke: You're welcome. Thank you.

INSURANCE BUREAU OF CANADA

The Vice-Chair (Mr. Jeff Leal): Next we have the Insurance Bureau of Canada, Mr. Tremblay, director of road safety and special projects. For the sake of Hansard, if you could identify yourself. You'll have 10 minutes, and any time left over will be reserved for questions. Welcome, sir.

Mr. Robert Tremblay: Thank you very much, Mr. Chairman. My name is Robert Tremblay. I'm the director of road safety and special projects at the Insurance Bureau of Canada. Actually, I'm delighted to appear before this committee to provide the Insurance Bureau of Canada's feedback on Bill 41, An Act to amend the Highway Traffic Act in relation to the use of speed-limiting systems in commercial motor vehicles.

The Insurance Bureau of Canada is the national industry association representing Canada's private home, car and business insurers. Our member companies represent nearly 95% of the property and casualty insurance market in Canada, an industry that employs over 104,000 Canadians, pays more than \$6 billion in taxes to federal and provincial governments and has a total premium base of about \$35 billion. Roughly 50% of our business is for car and truck insurance.

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IBC has a long history of spearheading important road safety initiatives. We were at the forefront of campaigns for seat belt use, drinking and driving and graduated licensing. Our most recent initiatives have been in the area of driver fatigue and driver distraction.

As soon as the bill was introduced, IBC was very supportive of it. There is no question that the proposed legislation would greatly contribute to making Ontario roads even safer. We all know that commercial truck drivers are amongst the best-trained and safest drivers on the highways. However, when there is a collision, even if it's not the tractor-trailer's fault, the results are quite dramatic.

That is what this speed-limiting initiative would do. It would give more time to the truck driver to perhaps correct the mistake of the other motorists on the road.

Of course, the other element, which is a benefit that is not necessarily easily quantifiable, is that it will reduce carbon emissions. The insurance industry, on the homeowner side and the business side, is quite concerned about the negative impacts of climate change. Anything that can help reduce carbon emissions is deemed a very positive initiative.

That said, I would like to highlight to the committee two ways in which we believe Bill 41 could be improved. I just noticed that my colleague Mr. Patterson raised the same points. One is the minimum fine. We believe that \$250 is not really a disincentive. It needs to be enforced. When you think of how much they put in in gas in their tractor-trailers, \$250 really is too low a fine. It wouldn't have the dissuasive effect that is desired, particularly as it will require some form of change in habit. Usually, when you're hitting the wallet early on and hard, the message

sinks in, especially if it's accompanied by proper enforcement.

In terms of public acceptance, we believe that the public is accepting well the idea of limiting the speed of tractor-trailers on our roads. That is a positive element.

We would also like to see buses included under legislation. They are also massive, and even though, as we've said, there are not a whole lot of collisions, when they do happen they are quite dramatic, not only for the other vehicle that is involved but for the passengers who are unrestrained in those vehicles.

I want to thank you for the opportunity to share IBC's thoughts on Bill 41. I would be happy to answer any questions you may have.

The Vice-Chair (Mr. Jeff Leal): Mr. Tremblay, thank you very much. We have about six minutes. In this round I'll start with Mr. Klees.

Mr. Frank Klees: Mr. Tremblay, thank you for your presentation today. I have a couple of specific questions. Would you have information regarding the percentage of commercial vehicles that are involved in collisions on our highways?

Mr. Robert Tremblay: I don't have, off the top of my head, the statistics, but I know that a minority of overall collisions on our roads involve commercial vehicles. That is a fact.

Mr. Frank Klees: I would think, with the research that you do, you probably have that somewhere. Perhaps our researcher could be in touch with you to glean that for us?

Mr. Robert Tremblay: Yes, it would be our pleasure.

Mr. Frank Klees: With regard to your comment that this will reduce the incidence of collisions and will improve safety, do I assume correctly that, when this is passed, there would in turn be a reduction of insurance premiums for those vehicles or those fleets that have these installed?

Mr. Robert Tremblay: The premiums are based on collision history and the cost of claims. Therefore, if the claims are less expensive, given the highly competitive nature of our industry, it will translate into savings for—

Mr. Frank Klees: I think you're waffling on that just a little bit.

Just one other question. You make the specific statement that speed regulators will reduce carbon emissions. What scientific evidence is available to you, that you might be able to share with us, that gives you that assurance?

Mr. Robert Tremblay: Essentially, the faster you go, the more fuel you're using to move your vehicle. I don't have exactly what percentage of savings you're going to have, but experts in that area that I've spoken to were talking about 15% savings. That would be significant, but I don't have any independent proof of that.

Mr. Frank Klees: You would be able to provide us with the references that you're using for your statements?

Mr. Robert Tremblay: Yes.

Mr. Frank Klees: Thank you very much.

The Vice-Chair (Mr. Jeff Leal): Mr. Miller, please. You have about five minutes.

Mr. Paul Miller: Welcome. I have a couple of questions in reference to the safety aspect of it. Some drivers are saying that they require the ability to speed up or slow down, depending on what's up ahead. Sometimes it may impair their ability to avoid a collision if they couldn't move out into the passing lane. What's your opinion on that from the Insurance Bureau?

Mr. Robert Tremblay: My understanding is that the technology, as it is currently, allows for a short period of time to go beyond the speed limit, but that is limited to a certain window. That should be sufficient to prevent or to help drivers to deal with unforeseen situations where more speed is what is required for a safe manoeuvre.

Mr. Paul Miller: I'd like to carry on with Mr. Klees's question. What additional incentives would the Insurance Bureau offer these trucking firms for these types of limiters? Are you going to get on board with the rest of us to give them some incentives?

Mr. Robert Tremblay: The Insurance Bureau of Canada is a trade association. There is one area where we do not have a mandate, and that is the individual commercial practices that our members companies will undertake. I would say that some might or might not. I cannot speak on their behalf.

Mr. Paul Miller: I guess that's a maybe. Okay. Thank you.

The Vice-Chair (Mr. Jeff Leal): We have about two minutes. Government side, Mr. Zimmer, please.

Mr. David Zimmer: This is a question I was going to ask Mr. Patterson, and Mr. Miller has already raised it. There have been some objections that we've received, and I anticipate something today. Can you anticipate other objections to this legislation, other than the one Mr. Miller has raised and you've answered? I'm trying to think of some, but I can't. Can you think of any?

Mr. Robert Tremblay: Quite frankly, as long as it is a level playing field, that all the truck operators are subjected to the same legislation, there is very little downside to it. The problem would be that if you had a component of a very competitive industry—the trucking industry is highly competitive—and if you had people who would not abide by that legislation or would not be subjected to that legislation, it would introduce a bias, a competitive advantage, which is, rightly or wrongly, faster delivery time. But so far as we can see, we see no downside to it.

Mr. David Zimmer: Thank you very much.

The Vice-Chair (Mr. Jeff Leal): Thank you very much, Mr. Tremblay. We appreciate your presentation this morning.

AMERICAN TRUCKING ASSOCIATIONS

The Vice-Chair (Mr. Jeff Leal): Next, we have the American Trucking Associations on a conference call. Ms. Margaret Irwin, Mr. David Potts and Mr. David Osiecki, welcome.

Mr. Dave Osiecki: Good morning. How are you?

The Vice-Chair (Mr. Jeff Leal): If you could just identify yourself for the sake of Hansard, I'd appreciate

it, sir. Then you'll have 10 minutes, and any time left over will be for questions.

Mr. Dave Osiecki: Certainly. Thank you. This is Dave Osiecki, vice-president of safety, security and operations with the American Trucking Associations. With me is Margaret Irwin, as well as David Potts, as you previously identified. We'd like to say good morning and thanks for the opportunity to speak with you today about Bill 41, currently being considered by your committee. In general terms, the American Trucking Associations supports Bill 41 as written and applauds the province of Ontario for moving forward on this important safety legislation, but we'd like to offer our comments.

First of all, we'd like to tell you, and you're probably somewhat familiar with this, that the trucking industry is a fairly important link between the United States and Canada, with Canada, of course, being our number one trading partner. In 2006, there were approximately 13.3 million trucks crossing at our common borders, about 35,000 trucks each and every day.

Trucks carry almost two thirds by value of the \$534 billion in trade between the US and Canada. And certainly, Ontario, which generated \$224 billion in cross-border truck trade with the US in 2007, is by far the US's most significant provincial trading partner.

We believe that speed limiters are clearly a part of a comprehensive strategy to make highways safer for all vehicles and drivers. We also believe that they help conserve energy resources and can lower truck emissions.

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In addition to speed limiters, ATA, on this end of the United States, is also advocating and promoting a 65-mile-per-hour national maximum speed limit. With respect to speed limiters, in 2006, ATA filed a petition with our US Department of Transportation, asking them to require vehicle manufacturers, truck manufacturers, to install speed-limiting devices set at no more than 68 miles per hour on new trucks with a gross vehicle weight rating of more than 26,000 pounds. Thus far, no action has been taken by the US DOT on this petition. With respect to our policy on speed limiters, supported by the petition, our policy states that the speed of class 7 and 8 trucks—class 7 starts at 26,000 pounds—used in commerce should be governed at a maximum speed not to exceed 68 miles per hour when manufactured.

With that said, we'd like to make a few notes or a few comments about the differences between the ATA position in our proposal and the Ontario Trucking Association's proposal, and what may be captured in Bill 41.

First of all, under the ATA proposal, as you heard, only newly manufactured trucks would be required to have speed limiters set. We understand that Bill 41 would most likely require commercial vehicles manufactured beginning in 1995 to have speed limiters. This is what OTA, the Ontario Trucking Association, supports.

ATA's proposal would have the manufacturer set the top speed limit of the speed limiter at the time of production. Of course, that top speed would be 68, according to our position. Bill 41 would have either the dealership

or the carrier's maintenance personnel set the speed limiter. Of course, that's also supported by OTA. So there is a difference there as well.

Lastly, our third point in terms of the differences: At ATA we support hard coding on the speed limiter. That goes back to the production side of this, the manufacturer. OTA supports soft coding.

Our proposal would set the speed limiters at a maximum speed not to exceed 68. The Ontario proposal, supported by OTA, would set them at 65 miles per hour. So there's obviously a small difference there.

Our position is that while harmonized regulations would be preferable, we encourage the assembly to give the Ontario Ministry of Transportation sufficient regulatory and enforcement discretion to accommodate any differences with potential future US regulation. ATA believes that Bill 41, as currently written, does provide this flexibility and thus will allow the ministry to write and enforce regulations in a way that will not create significant impediments to cross-border trade. I guess I want to reiterate that: We do not believe that, as Bill 41 is currently crafted, it would create significant impediments. We just don't see that.

That really summarizes our comments. I'd like to thank you and give you the opportunity to ask us any questions you may have.

The Vice-Chair (Mr. Jeff Leal): Thanks so much, Mr. Osiecki. We do have about six minutes for questions. On this round, we start with the government. Mr. Naqvi, please.

Mr. Yasir Naqvi: Thank you, sir, for your comments. I'm an international trade lawyer by training, and I found your last comment quite of interest, that there will be no significant impediment to cross-border trade. Can you further elaborate on that point and the basis of that assertion of yours, please?

Mr. Dave Osiecki: Sure. The basis of the assertion is that the vast majority of trucking fleets in the US—it's about 70%—already have their trucks speed-limited. It's the other 30% that we, as a part of our position, are trying to capture. The majority of trucks already operating in the US—and therefore we believe the majority operating in cross-border trade—are already speed-limited; they've already set the limiter. If they have set the limiter higher than 65, they certainly can turn it down from 68 to 65, or whatever they may currently have their setting at.

But our research also indicates—and this goes back about two years, prior to the significant increase in the cost of diesel fuel—that the average speed-limiter setting was about 68 to 69 miles per hour in the US. That average has come down, at least for the medium- and large-size fleets. We don't have a firm number, but we believe the number is closer to 65 at this point than it was a couple of years ago.

That's why we just don't see a significant trade impediment, given the current number and size of the fleet that's already limited and the fact that speed limiter settings are coming down, both from a safety perspective and, of course, also from a fuel conservation perspective.

Mr. Yasir Naqvi: Great. Thank you, sir.

Mr. Frank Klees: Thank you again for your presentation. I would ask you to comment, if you could, on the hard coding versus soft coding reference that you made. Could you educate us just very briefly on what the difference is?

Mr. Dave Osiecki: Sure. The hard coding means that the manufacturer of the truck would have a hard software code, if you will, in the chip in the engine control module. All new large trucks—in fact, all new cars on the market today—have what's called an ECM, an engine control module. There's a chip in that module that allows the speed to be set.

Soft coding right now means that the speed setting can be altered by any qualified technician or qualified maintenance person. Hard coding means that it can be set at a maximum limit so that it can't be set higher than that. We're advocating that the producers of trucks hard-code no higher than 68; it could be set lower but not higher than 68. Soft coding means it can be set at any particular limit as a part of that chip. It's a software change, essentially.

Mr. Paul Miller: Thanks for your presentation. I just wanted to know: Does this fall under federal jurisdiction or does it fall under state jurisdiction, as far as limiters go?

Mr. Dave Osiecki: I assume you're asking about the US?

Mr. Paul Miller: Yes.

Mr. Dave Osiecki: In the US it is federal jurisdiction.

Mr. Paul Miller: Is this going to be a national program that's going to—and what are the time elements on this? You said that you don't feel that it would be a disadvantage to the Canadian drivers. With different speeds in different states—whether it's implemented or not, will that have a negative impact, for instance, if Canadian drivers are driving slower and the American drivers are on their tail and want to speed up and they have the ability to program their own? That's the understanding I got, that at this point they have the ability to program their own limiters, which our drivers won't have the ability to do, because it'll be stationary. What do you feel that impact will have on our drivers?

Mr. Dave Osiecki: We believe the impact is negligible. Again, most US fleets are governed, and while we don't have this firmly in research, we believe that governed speed has come down from 68 closer to 65, given the fuel issue. Yes, there are fleets out there that have ungoverned trucks and trucks governed higher than 65 in the US, but they're the minority. Speed limits in the western US are indeed higher than 65 miles per hour, but most truck operations, particularly in the current environment with diesel fuel prices, are not operating at 70 or 75, because it's just not economically practical to do that. We see a very limited impact on US or Canadian drivers, no matter if the setting is at 68 or 65.

Mr. Paul Miller: There are some companies that offer incentives for early arrival, due to production possibilities and things. They have in the past offered trucking

firms incentives to arrive early and pick up another load and move on to another destination. How is this going to impact on the use of limiters? If they're self-controlled by the driver, do you think that maybe the driver would have the ability to set it higher so that he can have a more lucrative year?

Mr. Dave Osiecki: In the US, most drivers are not allowed to set the limiter; it's a qualified technician. I assume it's the same way in Canada. Could the drivers take their truck to a qualified technician? Yes, but there are oversight programs that fleets have in making sure that drivers do not do that. Most fleets have attempted to keep their drivers from tampering with the software coding on the ECM. I don't know if that responds to your question. Yes, there are incentives, but I think what's limiting the use of higher speeds today is—while I'd like to think it was driven by safety, I believe a lot of it's being driven by fuel cost.

The Vice-Chair (Mr. Jeff Leal): Thank you for being with us today.

ONTARIO TRUCKING ASSOCIATION

The Vice-Chair (Mr. Jeff Leal): Next we have the Ontario Trucking Association, Mr. David Bradley, please. Welcome. You've been through this before. Identify yourself for Hansard. You'll have 10 minutes, and any time left over will be for questions.

Mr. David Bradley: Thanks, Chair. I'm David Bradley, president of the Ontario Trucking Association. On behalf of the OTA, I'm speaking today in favour of Bill 41, and we urge all-party support for a speedy passage so the job of writing the regulations can commence and define the guts of this legislation.

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I want to tell you that Bill 41 has its genesis in a policy developed by OTA that was unveiled in November 2005. It is OTA's view that it should be mandatory that speed limiters be activated on all trucks equipped with electronic engines built since 1995 that operate into, out of and within Ontario, regardless of domicile, and that the limiters be set at a maximum speed of no more than 105 kilometres per hour. This was a position we came to after extensive research and consultation with carriers, drivers, engine and truck manufacturers, enforcement personnel, safety and environmental experts, and policy makers at home and abroad.

We know that truck drivers are not the worst offenders when it comes to excessive speeding. In fact, I'm proud to say that as a class they are the safest drivers on our highways. However, we also know that some do speed and drive aggressively, or are forced to by unscrupulous carriers and shippers; that voluntary measures have failed to be embraced by all operators; and that as an industry that shares its workplace with the public we have, as safety professionals, an added responsibility to do the right thing.

This is the right thing to do. There is no retrofitting required; the speed limiter just needs to be activated, and

this can be done in as little as 45 seconds. Our motivation is simple: to improve our industry's overall safety performance and therefore overall highway safety, and to reduce our carbon footprint. The public and government demand no less of us, and the responsible operators demand no less of themselves. It is also simply good business.

We are delighted by the support this measure has attained from so many individuals and organizations within and from outside the trucking industry. We are confident that one day we will be able to look back on this issue and know it was because of the leadership shown here in Ontario that the rest of North America will eventually embrace this measure as well. There are no NAFTA issues here; there is no discrimination; trade will not be impaired.

You will be hearing from some people who are opposed to this bill. Debate is good, and the trucking industry is never short of it. Trucking is a tough business, especially in these difficult economic times. However, I urge you to consider the fact that the majority of trucks operating in North America today are already doing so with their speed limiters activated. If any of what the opponents of this bill say will happen was true, how is it that many, if not the majority, of the companies already embracing speed limiters are generally considered to be amongst the best-managed companies in any industry, the most successful in the trucking industry and the most responsible in terms of safety and the environment? How is it that they are regularly recognized by their shippers on both sides of the border as providing the highest level of service and on-time performance? Is it coincidence that some of the most vocal Canadian supporters of this measure also happen to dominate the US Truckload Carriers Association safety awards this year? How is it that they're also likely to pay better than average wages to their drivers? How is it that our members who have governed their trucks for years, even at less than 105, cannot identify one instance of a car-into-truck rear-end collision where the car driver was not either drunk or excessively speeding?

The Ontario Trucking Association is a reasonable and responsible voice for our industry. In the past 15 years or so, we have worked with all parties when they've formed the government. We have been at the forefront of every major safety, environmental, productivity and efficiency measure impacting our industry. In the mid-1980s, we provided the vision for the commercial vehicle operator's registration system, or CVOR program, which MTO likes to say is the envy of North America. We were among the first proponents of the National Safety Code for trucks. We worked with the Rae government to introduce regulation of road brokers, to introduce longer trailers and combination lengths, and to introduce some semblance of shipper responsibility for axle overloads. We worked with the Harris and Eves governments to create the Target '97 task force on truck safety, which led to many tough new initiatives. During that time, OTA developed the mandatory wheel installer certification

program, and there can be no doubt that that saved lives. We have worked with the McGuinty government to develop modernized regulations governing truck driver hours of service and trip inspections. OTA proposed a tougher standard for the heavy-duty Drive Clean program, which was adopted by the Minister of the Environment.

There were people who were opposed to all of those initiatives as well. No piece of legislation or regulation is ever perfect, or the entire solution to all the world's ills. However, I don't think anyone on the committee would say now that those measures were not the right thing to do. OTA believes that Bill 41 is also the right thing to do.

Thank you. I would be happy to attempt to answer any questions you might have.

The Vice-Chair (Mr. Jeff Leal): Thank you, Mr. Bradley. We do appreciate your work in the trucking industry in the province of Ontario.

Round six: Mr. Miller, you're starting off.

Mr. Paul Miller: Thanks, Mr. Bradley. One of the comments that we've been receiving is from, obviously, independent truck driver owners. They're claiming that 70% of all accidents are caused by smaller vehicles, because of the professionalism of our drivers in Ontario. Would that be a fair estimate?

Mr. David Bradley: Yes, I think that is a fair estimate. It hovers, year by year, between 65% and 75%. Those are fatal accidents where a truck was involved and the driver was found to be not necessarily at fault but that it was non-preventable from the truck driver's point of view. That's absolutely true.

Mr. Paul Miller: I've heard many arguments today, but some of the drivers feel that it will have an impact on their financial ability to attain certain levels during the year as independent small truck owners. They feel that the larger companies have some flexibility and have large fleets, that they have a competitive edge over the independent driver, especially with the high fuel costs and things like that. Do you feel that this bill would negatively impact them in their ability to compete as independent owners?

Mr. David Bradley: First things first: The vast majority of independent owner-operators—99.9% probably—do not compete with the fleets. They contract themselves with the fleets.

Mr. Paul Miller: Subcontractors.

Mr. David Bradley: Yes. So there's no competition with the fleets in that regard. In terms of their ability to earn income, we have a shortage of qualified drivers in this country right now. We do not have an interest in putting our people out of business.

Again, the vast majority of the carriers in my association, and across the industry, already limit their trucks. Their drivers are doing fine. People want to work for those companies. I just wish that good drivers sometimes didn't end up working for crappy carriers. They'd find their life a whole lot better off.

Mr. Paul Miller: There's just one last quick question. They feel that uneven flow of traffic will only have the

opposite effect on the highway safety numbers by creating large and lengthy lines of trucks in the right lane, thereby creating a much higher probability of accident or incident due to the increased number of lane changes, due to speed adjustments. Do you feel that that's a valid argument?

Mr. David Bradley: No, we don't see it and we don't see it now. We have a speed differential on the highway now. Most trucks, as I said, are not excessive speeders. Even those that are aren't going the speeds that cars are. So we have a speed differential on the highway now.

The fact of the matter is that the posted speed limit is not a differential, which is what most of the studies in the US have looked at. We have a posted speed differential; we're not talking about that here. I don't see that.

Again, we hear as well that we're going to have all these cars running into the back of trucks. I've got members that for over 20 years have governed their trucks at 90 kilometres an hour and they can't point to one instance where that's because of the speed limiter. Yeah, there's cases where the car driver was drunk out of his mind or doing 150 kilometres an hour. That guy's got a death wish anyway.

The Vice-Chair (Mr. Jeff Leal): We have exactly 30 seconds. Quickly, Mrs. Mangat, please.

Mrs. Amrit Mangat: Mr. Bradley, can you tell us if any environmental groups support the OTA proposal?

Mr. David Bradley: Yes. In your package you will see the list of all of the groups—safety, environmental and otherwise—who are supporting this measure. That includes Pollution Probe and the Lung Association of Canada. I'll tell you that I also include the Ontario Trucking Association as an environmental group. At no time in our industry's history have society's environmental goals been more aligned with our economic goals. When fuel is at a \$1.25 a litre, if you don't get the fact that you need to slow down to save fuel, then you're not going to be in business, or you shouldn't be in business.

The Vice-Chair (Mr. Jeff Leal): Thank you very much, sir. We appreciate your presentation today.

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CANADIAN TRUCKING ALLIANCE

The Vice-Chair (Mr. Jeff Leal): Next I call upon the Canadian Trucking Alliance: Mr. Doug Switzer, vice-president of public affairs, and Ms. Debbie Virgoe, please.

Welcome. You have 10 minutes. Please identify yourselves for the sake of Hansard. Any time remaining will be for questions. It's good to have you with us today.

Mr. Doug Switzer: Thank you very much for having us. As you've said, my name is Doug Switzer. I'm the vice-president of public affairs with the Canadian Trucking Alliance. I'm going to make a couple of brief comments and then turn the rest of my time over to Debbie Virgoe.

Fundamentally, I'm here to tell you today that like the American Trucking Associations, who indicated that US

carriers don't have a problem with this legislation, speed limiters have been endorsed by all of the other provincial trucking associations across Canada. The Canadian Trucking Alliance is just that: It's an alliance of the seven provincial trucking associations. Once the OTA came forward with its proposals three years ago, the other trucking associations across this country took a look at it, and I can tell you that it wasn't too tough of a sell. They all unanimously endorsed this, so this is something that is supported across the country. Unfortunately, only in Ontario and Quebec have our associations been successful in convincing their governments to move forward on this. But as Mr. Bradley indicated, it is our hope that the leadership of Ontario and Quebec will spread across the country and we'll see the rest of the country follow suit in short order.

That being said, I'd like to turn over the rest of my time to Debbie Virgoe.

Mrs. Debbie Virgoe: Good morning. My name is Debbie Virgoe. I am here today to offer my thoughts and support to the Ontario Trucking Association's recommendations to have speed limiters placed on commercial transport vehicles.

My husband David had driven a commercial transport truck for 32 years without a preventable accident. The company that he drove for had speed limiters active on all of their trucks. He never complained about not being able to make his deliveries both safely and on time.

Both his own safety and the safety of others were a priority to David. He never encountered any problem over the years of driving a truck of not being able to support his family. When I approached the company that he was employed by and asked why they use speed limiters, I was told that it was for safety issues, insurance costs and lowering their cost of fuel.

I not only support transports being equipped with speed limiters, but I would also like to eventually see them on passenger vehicles as well. Preventable and reckless collisions are happening far too often on our roadways, and in most cases speed is a major factor. I know all too well that speed kills. My husband David lost his life as a result of three individuals using our roadways recklessly and with excessive speed.

Not that long ago, we had an incident where two dump trucks were allegedly chasing each other and speeding down the highway. One of them lost control, losing a tailgate and killing two innocent people. The need to step up in the fight in helping put an end to excessive and needless speeding is now.

I am very proud of the fact that the Ontario Trucking Association is once again taking the initiative in leading the way in helping to slow traffic down.

Thank you for your time.

The Vice-Chair (Mr. Jeff Leal): Thank you very much for sharing your personal story with us.

This is round seven. We'll start with the official opposition. Mr Klees, please.

Mr. Frank Klees: Thank you. We appreciate you being here, especially Mrs. Virgoe. We appreciate your input.

I'd like to ask Mr. Switzer, in light of the fact that you've obviously written this legislation, according to your e-mails, why did you put such a low minimum fine in place? We've heard from the Ontario Safety League as well as the Insurance Bureau of Canada that they'd like to see higher fine limits. What was your reasoning for using the \$250 minimum?

Mr. Doug Switzer: First of all, I think that it is fair to say that the origin of this legislation was with the trucking industry. We've worked very closely with the ministry in drafting this. I think the fine level is set where it is in the legislation because that's in the context of the other fines that we have. Certainly, in dealing with increasing fines and penalties, which in my previous life working here at Queen's Park I have some experience with, the Ministry of the Attorney General will frequently point out that they cannot make fines out of the context of the other penalties on the road. You can't have the penalty for a speed limiter be \$2,000 when the penalty for operating with brakes out of adjustment is \$500.

Mr. Frank Klees: Would you be opposed to an amendment that would reflect the recommendation from Mr. Patterson?

Mr. Doug Switzer: I don't think we would be. I think that we can have a reasonable discussion about that, but I do think that that discussion would have to include the fact that the fine level needs to be put in context with all of the other fines.

Mr. Frank Klees: We'll deal with that part.

Mr. Doug Switzer: Okay.

Mr. Frank Klees: You've recommended, obviously, a soft coding. We heard from the ATA that they support a hard coding. What was your reasoning for going to the soft coding?

Mr. Doug Switzer: Actually, if you look at our original proposal from 2005, we had originally called for hard coding. We withdrew that suggestion of hard coding at the request of the engine manufacturers and the manufacturers of trucks because they were concerned that they manufacture trucks for the North American market, not just for the Ontario market. So for them to manufacture a truck that was hard coded for just the Ontario market was an impractical solution.

We would agree that hard coding is a preferable route to go. Given that Ontario and Quebec are taking the lead on this and are the first jurisdictions that will be going out on it, soft coding was felt to be a more appropriate response, because it allows vehicles that are sold here to be coded here for this particular market without requiring the manufacturers to set it. The ATA has the luxury of speaking on behalf of the entire US market, and if their proposal were to be adopted, I don't think the engine manufacturers would have the same concern if every truck sold in the US had to be hard coded. But they did have some concerns about it here, and that's why it's soft coding rather than hard coding.

Mr. Frank Klees: My last question to you relates to the busing industry. You indicated that you consulted broadly on it. Did you consult with the busing industry on this, and do you agree, again, with the Ontario Safety League and the Insurance Bureau of Canada that buses should be included in this legislation?

Mr. Doug Switzer: We have had conversations with the busing industry, and I'm aware of their position on this. We have modest goals. We are only responsible for the trucking industry, as has been said. No piece of legislation can cure all the ills of the world in one fell swoop. This is, in many ways, as you've said, our bill. This was written by the trucking industry for the trucking industry and of the trucking industry. It was not our intention to solve all of the problems on the road, so it did not address the busing industry or cars.

While those are very important and interesting discussions that I think should occur, we don't really have a position on that. We take responsibility for the thing that is our responsibility, and that's the trucking industry. We hope that our example in slowing down vehicles will have a positive impact. We do believe that speeding is akin to drinking and driving and should be treated the same way. It is the drinking and driving of our generation. It is something that far too many people do and far too many take lightly. We're hoping that by leading the way as our industry, others will follow. But no, that's for others to decide whether or not the busing industry should be limited as well.

The Vice-Chair (Mr. Jeff Leal): Mr. Miller, two minutes.

Mr. Paul Miller: Thank you, Mrs. Virgoe, for coming. We're sorry about your loss. Fortunately, there are a lot of good drivers out there who avoid other people who shouldn't be on the road. These things happen, and it's terrible.

I guess my question to Mr. Switzer would be: Are you concerned about the differential between the American limiter of speed and the Canadian one? I'm assuming it's three or four miles per hour. They claim that it won't have an impact on arrival times, picking up loads, financial burden. Do you think that it will create a financial burden to our drivers? As a national organization and in talking to your brothers in the States, don't you think that everything should be uniform between America, Mexico—in the North American free trade agreement—that this should be North America-wide, not allowing anyone a little competitive edge, or whatever it might come across as? We all know that the new proposals for the borders may help drivers with their times and with the long lineups, and we're hoping that the new bridge in southwestern Ontario will help, but how do you feel about the fact that not everybody's on the same page?

Mr. Doug Switzer: Just very quickly on the competitive thing, I think you've heard from a number of people that in fact the best thing you can do for your competitive advantage as a trucking company is slow down, because your biggest cost is fuel, and there is no competitive advantage to speed. Even if the speed limit

were higher—I think the ATA mentioned the fact that even in those US states where the speed limit is higher, the companies that are operating there do tend to set their limiters below the posted speed limit for fuel economy reasons.

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In terms of addressing the differences between the US and the current proposal, we've had a lot of conversations with the ATA around this, and I think the committee needs to understand a couple of things. The ATA has a proposal that has not yet been adopted by the government, and one of the things that we've talked to the ATA and also to the government about is the fact that while they're at 68 and we're at 65, we don't know what the US government will ultimately adopt; that's just the ATA's proposal. For all we know, the US government will adopt 65 or 60. There's no point in trying to harmonize with a proposal when we don't actually have another law.

The issue around the hard coding and some of the other differences—I think we'll be in a different world if the entire US marketplace goes along with this. If they are successful in getting the US government to move forward with a national standard in the US, I think that would be an appropriate time for Ontario to engage in discussions with the US around harmonization, which is again—

The Vice-Chair (Mr. Jeff Leal): Thank you very much, Mr. Switzer. I've got to keep moving. Ms. Virgoe, thank you for your presentation.

OWNER-OPERATOR INDEPENDENT DRIVERS ASSOCIATION

The Vice-Chair (Mr. Jeff Leal): Next, we have Mr. Terry Button, Owner-Operator Independent Drivers Association. Mr. Button, please, if you could identify yourself for the sake of Hansard, you have 10 minutes. Any time remaining will be for questions. Welcome, sir.

Mr. Terry Button: Good morning, Mr. Chairman. My name is Terry Button. I own and operate Terry L. Button Farms, located in Rushville, New York; we're a New York State Century Farm.

I've driven a truck for a total of 32 years; I've been an owner-operator for the past 28. During my career, I regularly hauled to the Toronto market for about 15 years. Also, along the way, I gauge my farming operation, primarily growing, buying and producing hay throughout the eastern United States to the racetracks, feed stores and other dealers that service the equine industry.

I currently serve on the board of directors of the Owner-Operator Independent Drivers Association, and I'm on the board of directors for the National Hay Association. OOIDA is a not-for-profit corporation established in 1973, with its principal place of business in Grain Valley, Missouri. OOIDA is an international trade association representing the interests of independent owner-operators and professional drivers on all issues

that affect truckers. The more than 162,000 members of OOIDA are small-business men and women and professional truck drivers located in all 50 states and Canada who collectively own and operate more than 240,000 individual heavy trucks.

As a resident of a border state and through my involvement in the transportation industry, I am very aware of the trade relationship that our two great nations enjoy. In fact, I understand that Canada, as we said earlier, is the largest foreign consumer of American goods and that border states like New York and Michigan ship a combined \$30 billion in goods annually into the province of Ontario alone. The overwhelming majority of these goods are brought into the province by trucks owned by small businesses, as I have done in the past.

Small business truckers like me account for approximately 96% of the trucking industry—not what they said before. Few realize that small business truckers are the backbone of the industry. Without us, only a very few, very large trucking companies would monopolize the industry and be able to dictate freight rates to the disadvantage of shippers, receivers and, ultimately, the end consumer.

I speak to you now on behalf of OOIDA, its members and all truckers who will be adversely impacted by this proposed legislation, and provide a brief overview of our concerns with Bill 41.

Safety, as we've talked about, is of the utmost concern to the professional men and women who earn their living operating trucks of all sizes on the highways of North America. Bill 41 and its impending regulatory consequences will mandate that larger trucks, no matter in what jurisdiction they are based or what country they are based, be limited by speed in order to operate in Ontario. While the maximum posted speed on any highway in the province is less than the proposed speed limiter setting, that is not the case in a large number of other North American jurisdictions. In jurisdictions with higher posted speeds, the required speed limiter settings effectively create a situation where the different classes of vehicles are traveling at, in many cases, radically different speeds. Numerous studies show that split speeds result in an increase in accidents where smaller vehicles impact the rear of slower-moving trucks, and side-swipe accidents, many of which result in death.

Some believe that limiting large trucks to the same speed will improve lane management, whereby all those trucks will be merrily driving along in the right-hand lane, out of the way of the rest of the traffic. In reality, this is not the case. Due to a multiple of variables, few affected trucks will be traveling at precisely the same speed—it just doesn't happen—resulting in trucks passing one another over long stretches of highway. I've seen this in Ohio.

Some may think that it would be a good thing to slow down all traffic. We've heard that. Instead, the other drivers will become impatient and enraged, resulting in extremely unsafe manoeuvres—it happens every day—in their eagerness to get around slow trucks as quickly in

and out as they can. So speed limiters will increase both congestion and accidents and will have an effect in increased congestion.

Many believe that slowing down trucks will provide a tremendous benefit to the environment by reducing greenhouse emissions. That is a myth too. Some trucks may be geared so that the proposed speed setting will provide for an optimum engine operating range, but many are not. Mine is not. Speed is not alone in the complex equation that will ultimately save fuel and decrease harmful emissions.

Furthermore, consider the effect of the other vehicles in the traffic stream and how the increased congestion caused by lumbering trucks will increase emissions. You have to accelerate and de-accelerate all the time.

Although I am personally not an expert, it is my understanding that the proposed Ontario law may invoke certain NAFTA implications, in that it will effectively act as a trade barrier for US-based trucking companies and businesses and impede the free flow of goods that the treaty was designed to protect. Based on an OOIDA survey of its membership, 39% of our members regularly operate in Ontario. I use a company out of Michigan, Rumble. They come from Michigan over to Syracuse through Ontario and deliver at east Syracuse at New Venture Gear. They come to my place and load hay into the Carolinas, and then load manufactured parts out of the Carolinas back up to Michigan for the auto industry.

When asked in that same survey if those members would continue to provide transportation services to the province if Bill 41 passes, 88% said no. That's over 50,000 individuals and 80,000 trucks that now haul literally hundreds of thousands of loads a year in and out of Ontario that would no longer do so. There are many reasons why, but economics and safety concerns prevail.

The Vice-Chair (Mr. Jeff Leal): Mr. Button, you have about one minute to sum up.

Mr. Terry Button: Okay. We want to in fact work with all members of provincial Parliament who sit in the Ontario Legislature. We do believe that your good intentions are being taken advantage of and that you are on the verge of a very expensive mistake that will cost consumers and taxpayers millions of dollars and, in the end, you will be left with all the same environmental concerns.

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This legislation will have a higher truck accident rate and will drive up the price of goods in the province. So with all due respect, while we hope you will not pass Bill 41 as it is, we must be clear that if you do so, we will not sit idly by, but rather will exhaust all legislative and legal remedies to defeat this incredibly unsafe—I've been in contact with my legislators: Tom Reynolds in Buffalo, Jim Walsh, and my good friend Randy Kuhl in Washington, and their aides.

In closing, I would like to say thank you for the opportunity to address you today, and I will be happy to answer any questions you may have.

The Vice-Chair (Mr. Jeff Leal): Thank you sir. We're out of time. I appreciate your presentation this morning.

OWNER-OPERATOR INDEPENDENT DRIVERS ASSOCIATION FOUNDATION

The Vice-Chair (Mr. Jeff Leal): Next I'd like to welcome Mr. Tom Weakley, the director of operations for the Owner-Operator Independent Drivers Association Foundation. Mr. Weakley, you have 10 minutes. If there is any time left over, it will be reserved for questions. Could you identify yourself for Hansard, please?

Mr. Tom Weakley: Good morning, Mr. Chairman and committee members. Thank you for providing me the opportunity to offer comments on the matter of mandating speed limiters on all heavy-duty trucks traveling within Ontario's provincial border.

My name is Tom Weakley and I am the director of operations for the Owner-Operator Independent Drivers Association Foundation. The foundation was incorporated for the purpose of funding, compiling and conducting research concerning economic and safety issues which impact the motor carrier industry.

On the personal side, I have approximately 20-plus years in the trucking industry, from the perspective of a warehouseman, driver, recruiter, hazmat instructor, safety manager, operations manager and fleet manager.

It appears that those who are proposing mandated speed limiters on heavy vehicles are selling this concept as the magic elixir to save on fuel, eliminate greenhouse gas emissions and improve safety on the highways. These are indeed noble endeavours that all people, no matter their country of origin, can and should be concerned about. Certainly the government of Ontario has a responsibility to look at the concept, but it must reject panaceas that are costly and unwarranted. Mandated speed limiters will not accomplish the objectives they purport to cure, and they will create a safety hazard for all drivers and highway users in the province.

We have not been privy to the research that was conducted for Transport Canada but we have reviewed the discussion paper done by Ray Barton Associates in 2006 on speed limiters for trucks operating in Canada. His findings indicate that speeding on the highways for all vehicles is a common occurrence, and trucks exhibit less speeding than autos and are usually within five to 10 kilometres per hour of the posted speed. He notes that with the speed limiter policy in place, the average truck speed on 100-kilometre-per-hour highways would be reduced by about 2 kilometres per hour, assuming all trucks are compliant.

He does point out that limiting truck speeds at 105 kilometres per hour would provide fuel savings, but only for that portion of truck traffic occurring on highways with posted speeds of 100 to 110 kilometres per hour, and assuming that 45% of that truck travel occurs on roads posted at 100 to 110 kilometres per hour or higher.

A recent study by the Rocky Mountain Institute for the Canadian Trucking Alliance, in quoting the fuel savings, relied on trucks that utilize whole system designs, such as aerodynamics, low profile tires, retrofit equipment and anti-idling technology to arrive at their fuel savings and greenhouse gas reductions. These technologies have a much greater effect on greenhouse gas and fuel savings than speed limiters. According to Cummins engine manufacturers, and backed up by the study done by Deierlein, the most important fuel economy variable is the driver, who controls the idle time, vehicle speed, brake use etc. Speed limiters take away one of the most important variables that the driver can control. According to Deierlein's study, the difference between a good driver and a bad driver can be up to 35% in fuel efficiency. I personally have trouble wrapping my mind around the logic that speed limiters set above the maximum speed for highways in Ontario are going to improve greenhouse gases and help eliminate particulate matter.

In the United States, the EPA has set standards for engines that must meet stricter emission standards. New ultra-low-sulphur fuel must now be used in 2007, and newer engines that significantly reduce the amount of NO_x and PM being emitted. In fact, according to the EPA, when the program is fully implemented, annual emission reductions will be equivalent to removing the pollution from more than 90% of today's trucks and buses. There are even stricter emission standards for engines starting in 2010, so before this proposed bill becomes enforceable, the reduction in NO_x and PM will already be mandated, at least in US-manufactured trucks, making speed limiters a solution looking for a problem.

I'm not a technical expert on engines or on "specing" a truck, but you do need to ask what other mandates you will need to pass and enforce for compliance with the proposed speed limiter regulation.

Owner-operators and most carriers specify—or "spec"—their trucks to meet the demographic and personal needs of their business. If ECMs are set and not to be tampered with, then other mandates will have to be passed and enforced, such as the size of tires and what gear ratio must be on the truck. The proposed mandate would require that the electronic control module (ECM) be set to a limit of 105 kilometres per hour and cannot exceed that speed.

If my ECM is set for a tire that has 514 revolutions per mile and a rear axle ratio of 4.11, I cannot alter either the tire size or the gear ratio because that will alter my speed, even though a taller tire and different gear ratio may fit my business better. If I were to switch to a tire that has 478 revolutions per mile and a 3.55 rear axle ratio, the ECM will still show 105 kilometres per hour but the truck is capable of going much faster. Most carriers have chosen to have their ECMs set at differing speed limits for a variety of reasons, and they proudly espouse those benefits. It is a business decision that needs to be based on the carrier's business model, not on, "I did it, so you have to do it."

I cannot in good conscience omit the safety implications that mandating speed limiters will have on drivers

and all highway users. Dr. Steven Johnson of the University of Arkansas recently completed a study of speed differentials on rural highways. As Dr. Johnson explains, it is logical, at least to an industrial engineer, that the safest speed for all vehicles would be for all vehicles to travel at exactly the same speed, completely eliminating any interaction of vehicles. In short, you will see more interactions and accidents between cars and trucks if you slow trucks down from the rest of the flow of traffic.

I think this simple logic has been lost somewhere in the present contest by argument. Dr. Johnson secured a grant from the Department of Transportation to study speed differentials and their effects on safety, greenhouse gases and congestion. He can best talk about his findings and is submitting comments—which I think were submitted—but essentially his studies verify the simple logic that speed differentials create more interaction, and the more interaction among vehicles, the greater chance of accidents.

It is important to understand the economics of how drivers are paid when looking at the impact of speed limiters on the industry. Dr. Barton, in his discussion paper, points out that in European countries, company truck drivers are paid by the hour, so the speed at which they travel has little or no impact on the amount they are paid. In the US, getting paid by the mile is by far the most common method of pay for company drivers and the second most common method of pay for owner-operators.

The Owner-Operator Independent Drivers Association Foundation conducted a survey of their 15,327 company drivers concerning their experience, attitudes and behaviour concerning speed limiters. We received 3,422 responses, representing 2,080 trucking companies. We asked, "If the vehicle you drive is limited to a speed that is less than the speed limit on many highways you travel, do you exceed the speed limit on roads or in areas where the speed limit is less than the speed limiter setting to make up time?" There were 2,217 responses: 51.8% chose "sometimes," 16.7% chose "usually" and 5.3% chose "always." This is an alarming statistic, especially in light of the fact that according to the National Highway Traffic Safety Administration, 76.4% of all fatal crashes occur at speeds of 55 miles per hour or less.

We asked the drivers what their concerns were about speed limiters, and the top concern was a lack of passing speed, followed by increased congestion and being rear-ended. I can personally attest to these concerns, as I drove a speed-limited truck for many of those 20-plus years.

There are some very real economic downsides to mandating speed limiters and the verification of settings. According to Dr. Barton, checking the ECM setting would add about five to 10 minutes to the inspection time. Assuming seven minutes then, if added to the 347,256 roadside inspections done in Canada last year, it would add 2,604,420 minutes, or 43,407 hours of added delay. In his discussion paper, Dr. Barton estimates

there's also a \$3 million to \$4 million cost per year for equipment and maintenance.

The foundation conducted an online survey of owner-operators. The survey revealed that 39% of our members deliver into Ontario. That constitutes somewhere around 80,000 trucks, or better, and only 7% have maximum speed limiter setting of 105 kilometres per hour or less. According to that same survey, if the speed limiter mandate is passed, only 12% will continue to go into Ontario, representing a huge loss of trucks.

The Vice-Chair (Mr. Jeff Leal): You have one minute to sum up, sir.

Mr. Tom Weakley: Okay, then I'll skip this last part.

Losing the capacity of that large number of trucks and trailers by mandating speed limiters set at 105 kilometres per hour will exacerbate the problems of an export-based economy that Ontario has built its reputation on. In addition, Dr. Barton, in his discussion paper, makes the point that if Canada were to adopt the speed limiter policy while the US did not, it could effectively keep US carriers out of Canada, further stating, as has been suggested, that this could be considered a trade barrier and hence subject to challenge under NAFTA. Thank you.

The Vice-Chair (Mr. Jeff Leal): Thank you very much, sir. We're out of time. I would remind members that we will now recess, and the Standing Committee on Justice Policy will reconvene this afternoon at 2:30 p.m. Thank you so much.

The committee recessed from 1040 to 1430.

I.H. ASPER SCHOOL OF BUSINESS, UNIVERSITY OF MANITOBA

The Vice-Chair (Mr. Jeff Leal): I'd like to bring the Standing Committee on Justice Policy to order. It being 2:30, we'd like to try and stay right on time. Our first presenter is from the University of Manitoba, from the I.H. Asper School of Business, Professor Barry Prentice, who is a professor of supply chain management at that university.

Professor Prentice, you will have 10 minutes for your presentation on the conference call. Any time left over will be for questions. On this particular round, it's round 10, and we'll be starting with the official opposition. Professor Prentice, if you'd like to proceed, and identify yourself for the sake of Hansard.

Dr. Barry Prentice: Very well. Good morning, members of the justice committee. Thank you for providing me with the opportunity to offer comments on the matter of mandating speed limiters on all heavy-duty trucks travelling within Ontario's borders.

My name is Dr. Barry Prentice, and I am currently a professor at the University of Manitoba, and former director of the Transport Institute for 10 years. I have 25 years of experience in the area of transportation economics and policy analysis. Currently, I am working in the areas of cross-border trade, urban transportation, containerization, gateways and trade corridors.

I am addressing you today to express some great concern I have over the proposed speed limiter initiative. While I have not conducted my own independent research on the matter, I've looked at some of the existing relevant research, and I am troubled by this measure because I do not believe it will achieve the desired safety and environmental goals sought after by the government and the Ontario Trucking Association. Furthermore, I believe that this legislation will have significant economic implications for Ontario and will result in a number of unintended ancillary effects, including increased congestion, dangerous driving behaviour and minimal, if any, environmental benefits. For those reasons, I believe it would be prudent for the government of Ontario to reconsider this initiative and examine alternative measures, such as limiting the speed capabilities of drivers with multiple speeding offences; in other words going after the few bad apples, or supporting alternative technologies that could do post audits of speeding activities of vehicles.

It has been noted repeatedly during the dialogue that has accompanied this initiative that Ontario currently enjoys some of the safest highways in North America and that truckers are among the safest drivers on the roadways, experiencing relatively low accident rates and speeding infractions. However, in an effort to further improve on the safety record, Ontario officials and the OTA as a stakeholder have proposed further slowing down a specific segment of the traffic that are admittedly not the problem speeders. Addressing the wrong target will not lead to an improvement of Ontario's highway safety record. In fact, this legislation could have the obverse effect of diminishing safety, because it will increase the interaction between vehicles travelling at varying rates of speed.

At first blush, speed limiters may appear to be an answer to solve a perceived problem of a few bad apples who ignore the posted speed limits. We must be careful that we do not make our highways a hazard across the board in the name of stopping a handful of abusers. According to a study conducted by Dr. Steven Johnson, the Cost-Benefit Evaluation of Large Truck-Automobile Speed Limit Differentials on Rural Interstate Highways, when speed differentials are introduced on highways, the likelihood of negative interactions occurring can increase by as much as 227%. It may appear to be less of a concern on four-lane highways, but Ontario has a lot of traffic on two-lane roads where speed differentials could be disastrous. Dr. Johnson and Naveen Pawar, in their research, essentially argue that the safest roadways are those where all vehicles travel at the same rate of speed. Truckers have been aware of this fact for years, which is why many truckers view speed limiters as being unsafe and support a single speed limit enforced equally on all vehicles.

It has been noted by certain speed limiter proponents that heavy-duty trucks do not experience high rates of rear-end collisions. I wish to dispute this fact and point out that in the 2006 Fatality Analysis Reporting System,

it was reported that 17% of all fatal accidents involving a truck included a rear-end interaction; that is, a vehicle rear-ending a heavy-duty truck. Truckers have been aware of this problem for many years and view it as a valid fear, because when a fast-travelling car encounters a slow-moving truck and collides with that large object, the results will not be benign for either party involved.

To introduce speed differentials across the province will actually cause the safe highways that you currently enjoy to deteriorate. Mandatory speed limiters on trucks will create rolling bottlenecks that increase congestion and unsafe passing behaviour. This is especially a fact on the four-lane highways. Even on highways, in what drivers refer to as elephant racing, slow-moving trucks riding side by side impede the trailing flow of traffic. Not only does this result in lost productivity, it will result in angry drivers looking for ways to weave in and out of traffic around the truck.

Keep in mind that the office of analysis, research and technology division of the Federal Motor Carrier Safety Administration says that speeding alone is not one of the main causes of accidents in North America but, rather, travelling too fast for conditions. Not far behind that is unsafe entry and exit from the highways. If vehicles are travelling at excessive rates of speed to try to manoeuvre around vehicles while entering and exiting the roadways, accidents will occur.

The potential environmental benefit of a truck that travels slower can be measured in reduced fuel consumption. This is why some trucking companies have equipped their fleets with speed limiters voluntarily. What is true for the individual trucking company, however, might not apply to the macro environment. One must take into account that increased acceleration and deceleration levels will result from faster-moving vehicles trying to manoeuvre around the slower-moving trucks. It's well known that acceleration increases fuel consumption, and given the greater number of cars relative to trucks, this could potentially negate any fuel savings or modest GHG reductions anticipated by this legislation.

As I've already stated, many truck drivers—for a variety of reasons, which include safety and loss of power—prefer not to drive on a speed-limited engine. This is why the majority of the trucking industry in North America do not employ a speed limiter, and roughly only 50% of the trucks in Ontario that are owned by the largest trucking carriers employ speed-limiting devices.

The research shows that small businesses, which comprise approximately 96% of the North American trucking industry, do not employ speed-limiting devices, in part because the nature of the business requires that they travel through a multitude of jurisdictions with varying speed limits. There are 23 states in the US with speed limits above 70 miles per hour, nine of which are 75 miles per hour or higher. If Ontario proceeds with this legislation, it will be the only government in North America that has mandated speed limiters.

The American Trucking Association, a counterpart of the OTA, has proposed the use of speed limiters set at 68

miles per hour. The current administration in the US has made no indication it will initiate rule-making procedures before the end of its term, which is 2008. Therefore, if Ontario embarks on this initiative, it will be limiting the number of trucks that are capable of entering the province's borders and significantly impacting the delicate trade on which Ontario depends.

It also raises some delicate questions about trade impediments. If the US trucks and trucks from other Canadian provinces are not allowed to enter Ontario without speed limiters, there will be complaints of protectionism. If non-Ontario trucks are allowed to operate without speed limiters, then local truckers will complain of an unfair advantage to their competitors.

Ontario depends on trade integration with American manufacturers more than any other province. The vast majority of those goods are brought by the trucking industry, an industry built on small businesses. Border states such as Michigan and New York, that bring raw materials for products such as paper, a huge Canadian industry, export over \$30 billion in goods to Ontario alone. If Ontario passes this measure, it will be ensuring that only a handful of the existing motor carriers are capable of delivering imports into the province, which will cause demand to be significantly increased and the cost of goods to rise. We know that the trade balance has shifted recently. Now the northbound route is the head haul.

Speed limiters appear to be a solution searching for a problem. There are other ways. Systems can be devised to measure and record speed, location and distance, and truckers could be required to submit this information periodically. Fines could be levied if the trucker exceeds the maximum speeds more than 5% or 10% of the time. This would allow drivers to obtain a safe passing speed without facilitating excess speeding behaviour.

I had a conversation recently with a trucking operator who has a speed-limited truck. She says that she finds herself stuck behind a vehicle that is going slow—doesn't want the truck to get ahead of her for perceived reasons of safety or whatever. So when she tries to pass, the car speeds up. When she falls back, the car slows down, but, of course, other vehicles gather up behind her truck, and then they proceed with unsafe passing behaviour.

The Vice-Chair (Mr. Jeff Leal): Professor Prentice, you have about one minute left.

Dr. Barry Prentice: I will finish up right now.

I believe that if Ontario enacts this measure, very few provinces, if any, will follow suit. Alberta has already announced it will not pursue mandating speed limiters, and we can expect that others in the western part of Canada, who are likely of a similar mindset, will not enact such a law. I do not see this happening in Manitoba, by the way.

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We can also expect that it will not become legislation in the US, for a variety of reasons. Therefore, what we are pursuing is a patchwork system of varying transpor-

tation laws that will do nothing to promote safety, have a debatable impact on the environment and could significantly affect our trading relations. Ontario is perhaps better served by pursuing alternative measures to help address the few-bad-apples syndrome instead of decimating the already healthy crop that's on the highway system.

That concludes my presentation.

The Vice-Chair (Mr. Jeff Leal): Thank you very much, sir. We're out of time. We appreciate you being with us this afternoon and providing your insight.

Dr. Barry Prentice: Very well.

The Vice-Chair (Mr. Jeff Leal): Have a good afternoon.

Dr. Barry Prentice: Thank you.

WOMEN IN TRUCKING

The Vice-Chair (Mr. Jeff Leal): Next, I would ask Dorothy Sanderson, Women in Trucking, to come forward please.

Welcome, Dorothy. We already have your submission in our background. If you want to proceed, you'll have 10 minutes. For the purposes of Hansard, if you could identify yourself, and if there's any time left, we will have questions.

Welcome. It's good to have you with us today.

Mrs. Dorothy Sanderson: Thank you very much. I thought I'd read my submission. As I said, I'm Dorothy Sanderson. I'm from Cannington, Ontario, and I've been in this industry pretty much all of my life. I'm from a family that's in this industry.

To the committee: I would like to take this time to thank you for allowing me to speak. They say to appreciate the work that has been done in an industry, one must experience first-hand, by working in that particular industry, its triumphs and tribulations. Unlike working in an office, which I have, or working on a dairy farm, which is how I grew up, working as a professional driver is not something that you can just show up for Monday morning and begin to assume the workings of that vocation, without months of proper and prior rudimentary training.

Being a woman entering this profession is even more engaging. Many women enter the trucking industry for a myriad of reasons, not the least being to earn a fair and decent living for themselves and their family. For me, it was to help my husband, and then it was for us to earn the money to purchase our first family home. We wanted to set down roots for our three young daughters.

As a woman in the industry, you wear many hats. You begin as the business partner, as well as the mother at home and the co-driver when needed. In my case, though, at the age of 35, with daughters still in school, I became a widow. My life was jump-started and thrust into a totally different direction, one which I was totally unprepared for. But as I said before, coming from farm folks, no matter how far down the chips might fall, we strive to fight our way back up again. Welfare was a hand

up to us and not a permanent handout, nor was staying on it the direction in which I chose to raise my daughters.

Norm was dedicated to his profession. A truck driver who lived the life he loved to the fullest and never complained, he worked his last week on this earth living in his truck, loading and unloading by hand hundreds of pounds of groceries, driving in between times, and then running Toronto to Montreal and back again. He did not need a speed limiter in his truck and never got a speeding ticket with any he drove or that we owned. He was safe and conscientious, as most owner-operators are, and when he died suddenly of a heart attack—at the end of that week it was as though he had never existed at the company.

Even back then, the traffic was bad, people's driving habits were nasty, and semis and their drivers were seen as the bad guys on the roads. Unfortunately, the girls and I paid a high price, as WSIB was not made available to us, and I was told that he should have stayed in the truck and died behind the wheel, possibly on the 401 and possibly killing others as a result of his death. This is the very WSIB that is wanting speed limiters in semis, yet when a professional driver chooses to walk away from the semi, his family is left destitute because he put the safety of others over himself.

I was forced back on the road and can say from experience that speed limiters are merely a ploy by the big trucking companies as a way and means of controlling their employees. You must bear in mind that safety is not a factor here, but it can be a detriment because of the dual speed limit issue and the fact that many people see a slow-moving semi as a nuisance on the highway. It is something that must be either raced to the end of a highway on-ramp or passed as soon as possible to avoid any delays in their auto travel times.

Since most semis are tagged as the cause of many accidents, even before the situation is assessed, I am afraid of legal suicides out on the roads, as trucking companies are perceived as having deep pockets when it comes to lawsuits.

Slowing down a truck by inhibiting its safe flow of movement with the rest of the traffic in a workplace that is fraught with problems at any hour of the day or night will be economic suicide for the owner-operator, because it may inhibit the delivery that must be made that day and the pickup that is scheduled after.

Any glitch in this program could cause financial setbacks for the owner-operators, the shipper, the receiver, and the ability of the trucking company to be seen as conscientious. Who gets the ultimate blame? The truck driver.

When semis sit in heavy traffic, their intakes bring into the cab the exhaust smoke from the tailpipes of the autos in and around them. Many auto owners do not take as good care of their vehicle as we do our semis. I have had carbon monoxide poisoning from such inhalation of fumes, and it puts one in a state of wanting perpetual sleep. Semis have come a long way since the early years. The government-mandated electronics added to our

engines, along with the low sulphur diesel and a change in emissions, have produced a cleaner-burning engine, but it has come at a high cost of operating, that being the fact that we use more fuel and not less to maintain peak emission standards. Lugging an engine would be detrimental to the cause.

Speed limiters are not the answer to saving more money in the industry; movement rates are far too low and have always been. It is the unnecessarily high cost of fuel that is bringing many of these inequities to light now. We need lower-weight loads to pull; we do not need double trailers. Anything over 80,000 pounds gross sucks back the fuel, especially in the Superior area. More four-lane highways in the north are needed before even contemplating speed-limiting trucks up there. Speed limiters are not the answer.

We can't afford rising diesel prices, nor can our customers. We need better traffic flow patterns in southern Ontario. Tolling and selling the 407 was not the better way. It was initially built by taxpayers' money to take the excess off the 401. This would have gone a long way to meeting the government's emission targets. I have little doubt that there are experts here today who can attest to smarter, more innovative ways to reduce emissions than through the mandatory imposition of speed limiters. To say that speed limiters will cut fuel emissions is wrong. Truckers are the most environmentally conscious people I know and have already taken it upon themselves, especially the owner-operators, to conserve fuel as the cost to earn a living keeps rising.

I have something else to add. From what I have heard today, no scientific evidence exists that says that 105 kilometres an hour will positively result in lower greenhouse gas emissions. We are law-abiding citizens—we love our country, and we love our province—but we will not jeopardize our safety and the safety of others by being forced to install speed limiters. Safety is the issue here.

Ironically, we're putting safety at risk by putting our trust in an altered product that, if done wrong, could fail and cause untold misery and possibly death. Who will take the responsibility? The Ontario government? Ontario is a great place to live and earn a living, but I am concerned about the direction that the Ontario government is taking. My husband, who I just told you about, virtually died at the wheel. My father drove a truck, helping build the 401. It is a legacy that I am proud of. For an industry that was deregulated years back, we are experiencing more rules and regulations now than ever before.

Members of the committee, thank you for giving me the opportunity to speak to you today. It is heartening to know that an ordinary, taxpaying citizen can come down to Toronto to make suggestions on how the government should conduct its business and take the time to get to know the men and women behind the wheels that move the freight across North America.

In closing, I read what the Honourable Mr. Bradley said: "Large trucks must operate at safe speeds so our

friends and families may get home safely.” This is the most disgusting, discriminatory defaming of character to all professional drivers that I have ever read. I am saddened that the honourable minister has such a low opinion of us. Sure, there are rogue drivers out there, and they have ruined our image and they have no place on our roads or on our major highway system, but then again, there are rogue street racers and motorcyclists who ride the lines between vehicles.

I can only hope that we have been able today to put a human face on an industry that is so visible and yet so unknown. We, the families of the professional men and women drivers, want to see our family members arrive home safely too. Many, over the years, have lost that. Summer is almost upon us, and many youngsters will be out and about in the family semi. For most, it will probably be their only holiday away from home. I want those children kept safe and out of harm's way. Speed limiters are sitting in the driver's seat, as they have done before the children's holidays and as they will do when the children are back home—waiting for the family members' safe arrival.

The Vice-Chair (Mr. Jeff Leal): We are out of time, but thank you, Ms. Sanderson, for a very interesting insight into Ontario's trucking industry. Thank you so much. It's good to have you here today.

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CANADIAN OWNER OPERATORS' CO-OPERATIVE

The Vice-Chair (Mr. Jeff Leal): Next we have Mr. Ray Gompf, who is with the Canadian Owner Operators' Co-operative. Mr Gompf is on a conference call. If you could identify yourself for the purposes of Hansard, you have 10 minutes, sir. Any time that's left over we'll have for questions. Could you proceed, please.

Mr. Ray Gompf: My name is Ray Gompf. I'm with the Canadian Owner Operators' Co-operative, which was formed in 1992 as a result of many factors that adversely affected the small business owner-operator trucker. Since then, slightly more than 4,000 small business owner-operator truckers have joined the co-op to take advantage of the many programs developed over the years to help the small business owner-operator truckers reduce their operating costs.

Of the more than 4,000 current members, approximately 2,750 are Ontario residents.

The Canadian Owner Operators' Co-operative opposes the imposition of a law that would require each and every commercial vehicle operating in Ontario to be restricted to 105 kilometres per hour, because it would significantly increase the operating costs for small business owner-operators, who move approximately 40% of the province's freight, without providing any increased safety nor saving one gram of greenhouse gases.

Anybody who understands trucks and large diesel engines understands that simply forcing the engine to turn 100 revolutions per minute slower forces the engine

to work harder, or it has to be geared down one or two gears to run the speed required. Sure, the trucks are already equipped with 112-kilometre-per-hour chips and are specified to run most efficiently with that chip, but to change the chip to 105 kilometres per hour without changing the remaining specifications of the truck to match the 105 chip is unconscionable and will result in much more fuel being used.

It's not just a matter of changing to the 105 chip; it also requires that the engine, at a large cost, be reworked to achieve peak efficiency at the maximum of 105. The transmission would have to be retuned to achieve top gear, with engine torque and horsepower at maximum output. The differentials have to be changed to match the new output of the engine and transmission. Even the size of the tires may need modification. It's not the small job the OTA is saying it is.

So where's the saving? If the government were to say today that in 10 years they will bring in this 105 chip as a requirement, but in the meantime all new trucks that operate in the province must have the 105 chip, that would give all truckers the opportunity to specify their next vehicle to meet the 105 chip and maintain peak efficiency. We're still going to have no saving on the greenhouse gas issue, but at least there would be engines running at or near peak efficiency all the time.

To say that truck emissions have gone up significantly over the past 10 years is an absolutely refutable misrepresentation of the truth. Emissions have been steadily dropping over the past decade, and every manufacturer of diesel engines will support this statement. Check with Caterpillar, Cummins, Detroit Diesel, Mack, Volvo, Mercedes-Benz and others and see how much the emissions have been constantly reduced over the years.

In fact, a senior engineer with Mack has recently published a paper on the effects of the 105 policy, and essentially his findings support what we have been saying about this policy for the past several years. The Mack executive states categorically that reducing the electronic speed limit of trucks to 105 will increase the fuel usage as much as 10%.

So with fuel prices at or over \$1.50 per litre for diesel fuel, to restrict trucks to 105 without having the rest of the truck re-spec'd is going to make the cost of shipping products much more than it is now. Changing the chip to 105 without the other 50,000-odd dollars for doing the re-spec is going to damage the environment considerably more than that of today.

We know of not one trucker that can afford to re-spec their entire truck to adjust to the 105 chip. We do know that even though it will cost the trucker more, consumers will not stand for price increases in stores. So truckers will either eat the extra, and significant, costs for using the 105 chip, or they will simply say, "This is what pushes me over the edge. I quit." That will take the 2,700 trucks off the road. We know of a large number of owner-operator truckers who have already thrown in the towel. Many more are teetering on the brink of bankruptcy.

Twenty-five years ago or more, the trucking carriers decided that using small business owner-operators would save them a whole lot of money by shifting capital costs to the small business owner-operator trucker, and that keeping these business people subservient by paying them just barely enough to meet the costs would lock the small business owner-operator into staying put. Then, to add insult to injury, the trucking companies only gave the small business owner-operator trucker the least profitable loads, keeping the gravy loads for their own trucks, or load-brokering the freight at bargain-basement rates. Now the trucking companies have virtually used the small business owner-operator and spat them out. The 105 issue is the straw that is breaking the camel's back.

Restricting the truck to 105 has nothing to do with safety and nothing to do with saving fuel. In fact, it will cost more fuel. If the small business owner-operator trucker does re-specify the truck to match the 105 chip, he may save five one thousandths of a mile per gallon. Trucks today get, on average, 6.5 miles per gallon. If they change the chip to the 105, the fuel mileage will go down to, at the very best, 5.8 to 6.0. That's using the best fuel management techniques.

If the owner-operator trucker spends the \$50,000 that will be necessary to match the truck to the 105 chip, then the fuel mileage will maybe climb back up to 6.3 or 6.4. With careful, careful fuel management, the driver may get all the way up to 6.6, but never come close to 7.0. So where is the saving equivalent to removing 2,700 trucks from the road?

There are 40,000, plus or minus, small business owner-operators in Ontario. That's not even a blip when it comes to voting, so why should the government worry about this insignificant issue? Those 40,000 drivers vote, but they don't even make up enough numbers to count for half a riding. Drivers and owner-operators know this and they know they have little or no say in how things are run.

Now to the safety issue. The 105 issue is only going to affect the 400-series highways. But what about the 5,000 trucks travelling westbound every day on Highways 17 and 11, heading to western Canada? And what about the 5,000 eastbound every day on those same highways, heading for the Toronto and Montreal markets? What about the thousands of trucks using Highway 7 in eastern Ontario? What about the hundreds of trucks using Highway 3, saving themselves hours between London and Buffalo? Most of those roads have an 80-kilometre speed limit, while the highways in northern Ontario have 90-kilometre speed limits.

The Vice-Chair (Mr. Jeff Leal): Mr. Gompf, you have about one minute left.

Mr. Ray Gompf: Okay. We are totally against this 105 policy, for us and our members. We just want to make our point known.

The Vice-Chair (Mr. Jeff Leal): Thank you so much, sir. We certainly appreciate your presentation today. Thank you for being with us.

JEFF BRYAN TRANSPORT LTD.

The Vice-Chair (Mr. Jeff Leal): Next I'd like to call Jeff Bryan, who is head of Jeff Bryan Transport Ltd. Mr. Bryan, please.

You have 10 minutes. If there's any time left, we'll have some questions. For the purpose of Hansard, could you identify yourself, please.

Mr. Jeff Bryan: Thank you. My name is Jeff Bryan and I'm president of Jeff Bryan Transport. We're a small carrier operating 50 trucks out of Burford, Ontario. I'm here to indicate my strong support for this bill.

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I've been limiting the speed of my trucks for 13 years, partly because it's important for fuel efficiency and therefore good for business, but of greater importance to me is the fact that I'm personally committed to being a safe operator. I don't want my drivers endangering themselves or other motorists that they share the road with.

In that respect, I think I can say that I'm here speaking on behalf of the other trucking companies who also use electronic speed limiters to control their fleets. I've spoken to many of my colleagues and competitors in this industry who also govern their fleets, and I can tell you that we all share the same desire to operate responsibly and safely.

As I'm sure you know by now, the use of speed limiters is, in fact, a fairly common practice in the industry now, with more than half of the trucks operating on our highways already governed. While I do believe that most companies and most drivers take road safety seriously and don't speed, there are still some who think that speeding is either acceptable or even necessary. Just as the province passed legislation to require the use of seat belts, it appears that we need the province to legislate the use of speed governors in order to get everyone to use this basic piece of safety equipment which, just like seat belts, is already there on virtually every truck on the road today.

Let me be clear and to the point: I see no circumstance in which it is necessary or appropriate for a truck to exceed 105 kilometres an hour. Exceeding the posted speed limit is not only unsafe and environmentally harmful; it is also economically foolish. I can tell you that any trucking company, large or small, is more profitable and safer operating with the limiter activated.

Since the OTA first proposed this policy three years ago, I have followed the debate closely. As I've listened to the opponents of this bill, one thing has always struck me as odd: If any of their concerns were true, how is it that I and other carriers like me who have limited their trucks been able to successfully compete? We are all profitable companies; we are among the safest operators on the road; we don't have other cars hitting the back of our speed-limited trucks because of speed differentials; and we make our deliveries on time and offer our customers the same as or better service than fleets that are not limited.

Thanks for giving me the time, and I welcome some questions.

The Vice-Chair (Mr. Jeff Leal): Thanks very much. We have about eight minutes left. This is round 13, so I will go to the official opposition. Mr. Klees.

Mr. Frank Klees: Thank you, Mr. Bryan. You've touched on a question that I wanted to put to you.

Mr. Jeff Bryan: Good.

Mr. Frank Klees: I've been listening to both sides of this argument, which is the purpose of this committee hearing. I'm puzzled as to how people in the same industry can be arguing opposite sides of the equation. I don't have the answer; I'm hoping you do. What really is underlying this debate?

Everyone on both sides of the argument says they are supportive of safety; they want to do the right thing. So what is it? Why do we have people in your industry who have come here to this committee and said, "Look, don't do this; it's actually dangerous"? You, on the other hand, along with a lot of others—is it 50/50? Is that where the split is?

Mr. Jeff Bryan: I think there are probably more than 50% of the trucks on the road that are speed-limited.

Mr. Frank Klees: So I'll let you answer the question. Why do we have people arguing both sides of this from the same industry?

Mr. Jeff Bryan: I really don't know the answer. I can't answer for the other people. All I can say is that the policy, the way that I see it, will improve the image of our industry. It will improve the safety of the roads. If you want to talk about speed differentials, I think there's a bigger problem with the speed-limited trucks on the road with other trucks on the road that aren't speed-limited. It's not the cars that are not speed-limited. That's where I stand on this. The posted speed limit is 100. It's a much safer practice for us to be running at 100 to 105 kilometres an hour, in the right lane and out of the way, and letting the cars go by.

Mr. Frank Klees: Are you saying that 50% or thereabouts of truck drivers are lawless, that they're not capable of keeping the speed limit?

Mr. Jeff Bryan: No.

Mr. Frank Klees: I know that some people took exception to this, but during second reading debate on this I made the point that we have speed limiters in this province now—they're called speed limits. What I find difficult about this is that we're now talking about a sophisticated industry and responsible drivers, and all we need to do is ask our drivers to stay in the speed limit. But we're saying that 50% of the industry doesn't have the capacity to do that or isn't willing to do that. Help me to understand. Why can we simply not say, "We will enforce our speed limits," and get on with life?

Mr. Jeff Bryan: I guess we could say that, but I don't know if that'd be a question for me or anybody else in this room; it would probably be a question for the provincial police. I think that if you talk to them, they say that it's near impossible to control the other trucks that are on the road—the American drivers who are coming

into Ontario. It's dangerous for them. For us, it's a very simple task. For us to limit the speeds in our trucks is just plain simple. I don't understand why we'd want to endanger the OPP to enforce that.

Mr. Frank Klees: Okay. Just a couple of other quick questions. There were some recommendations made about the level of fines, and if we're committed to this and we think it's that important, then there should be serious consequences for not complying. The legislation now proposes a minimum of \$250. The Ontario Safety League recommended that that should be increased; that the ratio from minimum to maximum should be somewhere in the range of 10%. Would you be supportive of an increased fine level in this legislation?

Mr. Jeff Bryan: For speeding?

Mr. Frank Klees: Yes.

Mr. Jeff Bryan: If it was directed at the driver, I would.

Mr. Frank Klees: For not complying with the legislation.

Mr. Jeff Bryan: Bill 41?

Mr. Frank Klees: Yes.

Mr. Jeff Bryan: Yes. I certainly don't have a problem with the fines at that level. I think that most carriers—most responsible truckers—would be more concerned about their CVOR and how it would affect their CVOR. I think that that would be an important piece of the legislation, that it be noted on there.

Mr. Frank Klees: Do you think buses should be included in this as well?

Mr. Jeff Bryan: I'd be for everybody doing it, myself, but—

Mr. Frank Klees: Would there be any rationale—

Mr. Jeff Bryan: I don't understand the dynamics of their industry at all, so I probably shouldn't even comment on the bus issue.

Mr. Frank Klees: They're huge vehicles, they weigh a lot, they've got pretty important cargo and they're using the same road system as you are. What's good for one has to be good for the other. I personally wouldn't understand, if we do it for truckers, why we wouldn't do it for buses.

Mr. Jeff Bryan: Sure; I would agree with that. When you're talking stopping distance and weight and things like that, yes, absolutely; it'd probably be a good thing. But like I said, I don't understand the dynamics of their business. I just understand the trucking industry when it comes to this, and I really believe it's a good step for our industry to go this way.

Mr. Frank Klees: Thank you, Chair.

The Vice-Chair (Mr. Jeff Leal): We have two minutes left. It's the NDP's turn on the rotation. Ms. DiNovo and Mr. Kormos for two minutes.

Ms. Cheri DiNovo: Thank you, Mr. Bryan, for appearing before us. A couple of questions: We heard a couple of deputations just before you came. One of them suggested, through his research as a professor, that 96% of the North American trucking industry does not employ speed-limiting devices. You heard Mr. Klees ask you,

“Why can’t we address the problems of truckers who speed by simply enforcing the law?” I’m wondering if you could comment on why 96% of the trucking industry does not do this and why we’d be the only jurisdiction in North America that did, and why it could not be addressed by the Criminal Code application through speeding.

Mr. Jeff Bryan: Again, I don’t know why it couldn’t be addressed by speeding. They should be pulling trucks over, but I don’t think you see a truck ever pulled over for speeding on Ontario highways, especially on the 400 series, anyway. That’s not a question for me; that’d be a question for somebody else.

Ms. Cheri DiNovo: And the 96% of the industry not—

Mr. Jeff Bryan: Yes, that’s what he said, but I sat there when he said that and I added up on both hands the few of the largest carriers in this province that are speed-limited. They would represent a lot more than 50% of Ontario. If he said 96%, I don’t know where he’s getting that information from. But I certainly think that the majority of the responsible carriers are limiting their speed now.

The Vice-Chair (Mr. Jeff Leal): Thanks very much, sir. Time has expired for your presentation. Thank you for being here.

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OWNER-OPERATOR’S BUSINESS ASSOCIATION OF CANADA

The Vice-Chair (Mr. Jeff Leal): Next we have Joanne Ritchie, the executive director of the Owner-Operator’s Business Association of Canada, and Mr. Park. Ms. Ritchie, you will have 10 minutes for your presentation, and any remaining time will be for questions. If you could identify yourself for the purposes of Hansard. Welcome.

Ms. Joanne Ritchie: Thank you. It’s Joanne Ritchie speaking. I’m the executive director of the Owner-Operator’s Business Association of Canada, and I am by myself calling you on my cellphone. Would you like me to go ahead?

The Vice-Chair (Mr. Jeff Leal): Yes, please. I hope you’re doing this in a very safe way.

Ms. Joanne Ritchie: Yes. That’s what I’m about to tell you.

OBAC is the only national trade association, by the way, in Canada that represents the interests of independent owner-operators and professional truck drivers on issues that affect small-business truckers. We’re a not-for-profit association based in Ottawa. I had every intention of appearing before the committee in person today, but—Hello?

The Vice-Chair (Mr. Jeff Leal): We’re listening.

Ms. Joanne Ritchie: Sorry. It blanked out there for a minute. I had every intention of appearing before the committee in person to present OBAC’s comments on Bill 41, but instead I’m sitting in my car at the 10 Acre

Truck Stop in Belleville. This is not the presentation I intended to make, but I would like to go on record with an explanation of why I am here and not there.

I’ve already expressed my displeasure to the committee with not only the short notice given for this hearing but also that public input on such an important issue is restricted to a one-day session in downtown Toronto. Like most small, not-for-profit associations, OBAC operates on a shoestring budget, and in fact, I’m OBAC’s sole staff person. My board of directors and all my policy and technical advisers are volunteers, and they’re all professional drivers who are out there on the road right now delivering someone’s bottled water, toilet paper and strawberries, which makes it impossible for them to arrange their work schedules to be anywhere on two days’ notice.

As a result, I’ve spent the past two days organizing my schedule and shuffling priorities so that we could take part in this process. It left me working through the night last night to finalize OBAC’s presentation to this committee. I had only time this morning to grab a quick shower before I had to get on the road and make the six-hour drive from my home to Toronto. With no sleep at all last night and only an hour or two in the previous 24, I got in my car and got on the road. Somewhere en route, finally I came to my senses and I realized that I was simply too tired for driving and I was putting myself and every other driver on the road at risk. I pulled over and I called the committee clerk to say that I simply could not be there. I’ve managed to get myself to a safe place, and here I sit. Please understand the frustration in my voice. I’m exhausted; I’m frustrated; I’m in no condition to make a presentation.

My written comments will be in the hands of the committee as soon as I am able to get to my e-mail. Although my faith in the democratic process has been pushed to the wall by a government that seems bent on shutting people out rather than including them, I’m hoping that the committee and others will take time to read and consider our comments in opposition to the proposed legislation. These comments, as you’ll read, point out that the bill will not accomplish its intended objectives of safer roads and cleaner air, and it could have unintended negative consequences by diverting the government’s focus and resources away from measures that would enhance highway safety and help the trucking industry further reduce its environmental footprint. We also outline in the paper a variety of other, more effective, measures for reducing speeding and for achieving fuel conservation and controlling costs. I think you’ll find the comments insightful, and I trust that they will be read and carefully considered.

There are a couple of things that I would like the committee to keep in mind as you read those comments, please. First of all, there’s no one more committed to highway safety than the thousands of men and women who drive trucks for a living. Professional drivers who spend hours behind the wheel driving on every roadway in every province, territory and state in North America

have a huge stake in a safe workplace. Those professional drivers who own and operate their own truck—sometimes more than one truck—are hard-working entrepreneurs who strive, like all small business owners, to run safe and profitable businesses. In today's economy, as they struggle with rising costs—in particular, fuel, which accounts for upwards of 60% of their costs—they are acutely aware that running their trucks efficiently is critical to their success.

The other thing I would like the committee to please keep in mind, and anyone else who's reading this, is that it's ludicrous to presume that those who oppose government-mandated speed limiters condone speeding. It's just plain wrong to believe that an electronically governed truck engine will prevent speeding; it's just as flawed to believe that a truck without an electronic speed governor will be driven in excess of the speed limit or too fast for conditions.

This bill requires full and fair public debate. It's much too important to the health and safety of Ontarians to limit public input to one session in downtown Toronto. I would urge the committee to provide an opportunity for all stakeholders to participate in the democratic process by scheduling public hearings when and where those who are stakeholders are able to participate. We need a more inclusive participation in this bill.

I apologize for not giving you the presentation that you expected, and I do thank you for your indulgence. Incidentally, I will make it to Toronto tomorrow and I'll be available if anyone would like to speak with me—with questions, or to pursue further discussion.

The Vice-Chair (Mr. Jeff Leal): Ms. Ritchie, no apology needed. I know you'll e-mail your submission. Thank you so much for making a Herculean effort to reach us this afternoon. We do have about three minutes left for some questions, and on round 14 the government has the first question. Do any government members have a question?

Mr. Michael A. Brown: The first thing I would like to say is that we really appreciate you going, as the Chair says, to Herculean efforts to make a presentation to us, and we look very much forward to reading your submission and would hope that we could have it as quickly as possible—

Ms. Joanne Ritchie: You'll have it as quickly as I get to an e-mail.

Mr. Michael A. Brown: I am wondering—I am a northern member myself. I represent a very large constituency in northern Ontario, where the speed limit on our highways is 90. Many of the speed limits in southern Ontario, other than on the 400-series, are 80. This bill suggests that there's a 25-kilometre ability to speed in southern Ontario, and an opportunity, with the speed limiter on, to go 15 kilometres faster than the speed limit. Are you suggesting that's not enough? I'm not fully understanding you.

Ms. Joanne Ritchie: That particular issue is addressed in our paper, the whole idea that there are very few roadways in Ontario where the speed of 100 kilo-

metres an hour is allowed. It's very hard to understand why someone would presume that governing a truck—80 in a 105-kilometre—would do anything to improve safety on our most dangerous highways. Those two-lane highways where the speed limit is 80 or 90 kilometres an hour are responsible for about 85% of our truck crashes in Ontario. I think you'll find that our discussion on that point is fully laid out in the paper.

The Vice-Chair (Mr. Jeff Leal): Mr. Klees, 30 seconds.

Mr. Frank Klees: I can't do it in 30 seconds.

The Vice-Chair (Mr. Jeff Leal): As quickly as you can.

Ms. Joanne Ritchie: Call me tomorrow.

Mr. Frank Klees: Perhaps you can just very quickly give me your thoughts as to why we're having this debate. We have representatives from the industry here who are arguing strongly in favour of this; we have people like yourself on the other side. What's the issue? Why do we have two sides on this argument—people in the same industry, all concerned about safety? What really is the reason for those who are advocating speed limiters? Why is it that they want you to be forced to have them if you say that you're willing to comply voluntarily with the speed limit laws?

1520

Ms. Joanne Ritchie: Well, that's a very good question and is, more or less, the core of our argument against government-mandated speed limiters. We in no way encourage speeding. In fact, we encourage good speed management. We just feel that it's a waste of government resources that could be very well spent in other ways: to promote road safety and to reduce our environmental footprint.

The Vice-Chair (Mr. Jeff Leal): Thank you very much, Ms. Ritchie. Drive safely back to Ottawa.

Ms. Joanne Ritchie: Thank you so much and thanks again for your indulgence.

The Vice-Chair (Mr. Jeff Leal): This concludes the presentations this afternoon. I'd like to remind members of the committee that we have a deadline for amendments, which is 1 p.m., Wednesday, June 11. We have a deadline for written submissions of 5 p.m. today, but someone has asked for an extension. Maybe we could have a little discussion about that. I know Mr. Kormos has an item he wants to bring to the floor, then Mr. Klees.

First of all, could we deal with the extension for people who want to make submissions. Ms. DiNovo.

Ms. Cheri DiNovo: It seems to me, particularly in light of Ms. Ritchie's comments, that with only one day, she couldn't make it. I imagine a lot of other deputants couldn't make it either. I think we need more time overall, but certainly more time than today to make submissions.

The Vice-Chair (Mr. Jeff Leal): Mr. Klees, do you have any thoughts on—

Mr. Frank Klees: On the extensions for submissions?

The Vice-Chair (Mr. Jeff Leal): Yes.

Mr. Frank Klees: Look, I'm happy to have as much input on this as we can get. What I'd be most interested in is if we could have some people coming forward and drilling to the real core issue here, which I'm still searching for. As a member of this committee, as a legislator who's going to be asked to vote for this, I am still having a difficult time understanding why we have people coming forward—whether it's the Canadian Trucking Alliance, the Ontario Trucking Association or the American Trucking Associations—saying that this is critical, that we need it for safety. Then we have the other 50% of people in the industry, who seem to be the smaller business people, the owner-operators, who are telling us it's going to put them out of business.

I'm missing something here. If the OTA or the Canadian Trucking Alliance can answer that question, I'd look forward to having that information available to the committee and to the government before we make a decision—so by all means. Look, I'm—

The Vice-Chair (Mr. Jeff Leal): Since amendments have to be filed by 1 p.m. on the 11th, maybe we'll take submissions right up until 5 p.m. on the 10th, if that's acceptable?

Mr. Frank Klees: It's acceptable to me.

The Vice-Chair (Mr. Jeff Leal): Is that acceptable to the NDP? Does that work for the government?

Mr. Michael A. Brown: It works for me.

The Vice-Chair (Mr. Jeff Leal): Okay. Mr. Kormos, I want to go to you now, and then Mr. Klees.

Mr. Peter Kormos: Thank you, Chair. Mind you, I've got to note that this slam-bam, thank-you-kindly approach to putting legislation through committee always amazes and bewilders me.

In any event, Professor Prentice of the University of Manitoba referred to a number of research papers. If legislative research could acquire those for the committee, I'd appreciate it.

The other request is if Hansard—now I'm speaking through you, Chair, to Hansard, up there in the ether, those wonderful people who work so hard and are so understaffed—could do their best to expedite the transcript of the presentations. They're going to be particularly valuable for people on third reading. I regret making that request of Hansard. It's not an official request; it's a plea. It's an exhortation. I'm begging Hansard to please do their best to get this one day's

transcript prepared. I want them to know I appreciate it very, very much, and so does everybody else.

The Vice-Chair (Mr. Jeff Leal): Duly noted, Mr. Kormos. We'll see what we can do to expedite your request. Mr. Klees.

Mr. Frank Klees: I'd like to support Mr. Kormos's request for that, particularly for those who have made their submissions via teleconference. That would be very helpful.

Also with regard to the research paper, Mr. Tom Weakley referred to a report as well, which seems a fairly extensive report related to trucking in Canada. I think the name was Barton, if I'm not mistaken. If we could get that report and have it distributed to members, I'd appreciate that. As well, we did have a number of e-mails that were sent in. What I noticed, though, is that there were faxes as well as e-mails, and there was no reference to addresses. I don't know if these people are from Nevada or from Ontario. If we could just confirm with them—especially those with e-mails; we know how to get back to them—where they're from, perhaps the name of their company or any association that they may have, it helps us to know where this input is coming from.

The other part that I believe I had already asked research for some information on—there were a couple of people, but the Insurance Bureau specifically this morning made some comments, some specific statements. I asked if they would make their research available to us; if we could make sure to follow up on that, as well as the claims regarding the reduction in greenhouse gases. There are a number of people who are making very definite statements regarding that, including the government, but I have yet to see any evidence of that. So if we could ask research to contact those people who have made those claims and ask for the basis on which they're making those claims—maybe you have to contact Al Gore, I don't know—but if you would do what you could to get that information for us, I'd appreciate it.

The Vice-Chair (Mr. Jeff Leal): Thank you so much. Any other business for the committee?

We'll adjourn the Standing Committee on Justice Policy this afternoon and we'll reconvene next Thursday, June 12 at 9 a.m. for clause-by-clause. I appreciate the members and their cooperation, both this morning and this afternoon. We stand adjourned.

The committee adjourned at 1527.

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Standing Committee on Justice Policy

Highway Traffic Amendment Act
(Speed-limiting Systems), 2008

Comité permanent de la justice

Loi de 2008 modifiant
le Code de la route
(systèmes limiteurs de vitesse)

Chair: Lorenzo Berardinetti
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
JUSTICE POLICYCOMITÉ PERMANENT
DE LA JUSTICE

Thursday 12 June 2008

Jeudi 12 juin 2008

*The committee met at 0900 in committee room 1.*HIGHWAY TRAFFIC AMENDMENT ACT
(SPEED-LIMITING SYSTEMS), 2008LOI DE 2008 MODIFIANT
LE CODE DE LA ROUTE
(SYSTÈMES LIMITEURS DE VITESSE)

Consideration of Bill 41, An Act to amend the Highway Traffic Act in relation to the use of speed-limiting systems in commercial motor vehicles / Projet de loi 41, Loi modifiant le Code de la route relativement à l'utilisation de systèmes limiteurs de vitesse dans les véhicules utilitaires.

The Vice-Chair (Mr. Jeff Leal): It being 9 of the clock, we'll commence today's proceedings of the Standing Committee on Justice Policy. This morning we're dealing with clause-by-clause consideration of Bill 41, An Act to amend the Highway Traffic Act in relation to the use of speed-limiting systems in commercial motor vehicles, 2008. Are there any comments, questions or amendments to any section of the bill, and if so, to which section?

Mr. Frank Klees: There are indeed. I believe they are before us.

The Vice-Chair (Mr. Jeff Leal): So we'll commence our work this morning. There are a couple of e-mails that came in a little bit late. I'd just like some guidance as to whether to accept them at this time.

Mr. Frank Klees: I certainly think we should accept them and express regrets that people had not had more time to submit their opinions on this legislation.

Mr. Michael A. Brown: We'd echo that and also share the view that the subcommittee did its work and all parties agreed to the timelines we're following.

The Vice-Chair (Mr. Jeff Leal): I'd also note that we do have the research package from the research staff. Plus, I have some additional e-mails that are attached to the research package.

So, without any further ado, we'll commence our proceedings this morning. The first amendment is one by Mr. Klees to section 68.1(1.1). Mr. Klees.

Mr. Frank Klees: I move that section 68.1 of the Highway Traffic Act, as set out in section 1 of the bill, be amended by adding the following subsection:

"Definition, commercial motor vehicle

"(1.1) In this section,

"'commercial motor vehicle' means a commercial motor vehicle as defined by regulation but does not include a bus."

The Vice-Chair (Mr. Jeff Leal): Do you have some comments, Mr. Klees?

Mr. Frank Klees: Yes. I'm going to set the context for this amendment. Before I do, however, I'd like to point out that I am disappointed that this process is being rushed. I would have preferred that we have much more time. I actually would have preferred that this committee did some travelling over the course of the summer and allowed people from various parts of the province to come forward to express their views.

I had a discussion, very briefly, with the minister in the House yesterday in terms of the urgency of this and why it is important for the government to have this legislation dealt with before we rise for the summer. His response was that it's a function of implementation. Apparently, the Quebec Legislature has passed their speed-limiting law, and the province of Ontario wanted to coordinate the implementation date with the province of Quebec. I accept that explanation, but, having said that, I really do believe that we should have had more time.

To the parliamentary assistant's comments about the subcommittee: He's absolutely right. I participate in that subcommittee. There was agreement in the subcommittee in terms of the timeline, but that was really pursuant to what we were advised was an agenda that the government wanted. We are a minority in this Legislature, and so I think the parliamentary assistant will agree that there really was not much that we could have done other than to express our objection.

Having said that, we now have before us—this is the first time that I have seen this truckload of paper, and we're now coming into committee to do clause-by-clause. That's what we're mandated to do here. Just a cursory breezing through this research shows not that it would have changed the opinion of the government or government committee members, but it certainly would have given all of us a better understanding of the issue. None of this research—and I compliment the researchers for having done all of this work—will have any impact on how we deal with this legislation. It will make for interesting reading, it will give us some reference for third reading debate, but at the same time, it's not how we would hope that business is done.

At the outset, I will say that the more I learn about this proposed legislation, the less I like it. The more I learn about how it came forward, the more concern I have with the motivation behind it. The more debate and representation I hear about how this is all about safety—I expressed here in committee when we last sat that I need a much better understanding about how people from the same industry can be arguing opposite ends of the rationale for this legislation.

Very well-meaning, hard-working people in the trucking industry are saying that this is not good, that it will be harmful to the industry and in certain cases will create safety issues. Then we have on the other hand—largely, from what I've seen now—the large carriers that have advocated this legislation. They are arguing that this is all about safety; some reference to the environment, some reference to saving money and fuel and so on, but it still leaves me puzzled.

I had many more amendments, but it's very clear that the government is not prepared to move off of implementing this legislation. I have communicated that to stakeholders who have serious concerns, that we have a majority government, that the majority of the members on this committee are from the government side. We'll see how many amendments will be accepted by the government; I'm hoping that at least one out of however many we have will be. The reason I didn't present more amendments is because I know it's futile to present amendments here that would substantially change this bill.

However, my first amendment is perhaps what I see at least as a desperation attempt to ensure that this legislation is limited to those people who have at least half of the industry, or 25% of the industry—depending on whose numbers you believe; the people who have requested the legislation—that at least it's contained to their sector of the industry.

I'm proposing that in the legislation, we exclude passenger buses. To provide some support for this, I am going to refer to a letter that was written to Mr. Brian Patterson of the Ontario Safety League by Brian Crow, the Ontario Motor Coach Association's president. He makes, I think, some excellent points in his letter. I want to read them into the record for the benefit of members of the committee who haven't seen this letter and certainly anyone who is following the discussions of this committee.

0910

Mr. Crow states the following:

"We are disappointed with your ... remarks to the media with respect to speed limiters on motor coaches. We are disappointed that you did not contact us for our comments before you decided to include motor coaches in this truck-initiated issue. You have been quoted as saying that you will ask the MTO to include motor coaches in the speed-limiter regulations.

"You have chosen to put passenger-carrying motor coaches into the same category as freight-carrying trucks. In order for you to be consistent, we assume then that

you include passenger cars, vans, taxis, and school buses in your demand for speed limiters.

"First let me say: We do not condone excessive speeding whatsoever. We estimate that 50% of motor coaches already operate with speed limiters not necessarily set at 105 km/hr.

"Second: Government has decided that the maximum speed for the safety of the public is 100 km (on major highways in Ontario) and it is their responsibility to enforce this limit—not doing so is an abdication of their responsibility. This has created an unofficial speed limit of 120 km/hour—so what is excessive? With the OSL concerned about safety, why not put effort into having the real speed limit enforced on all vehicles? Our understanding is that most fatalities are caused by cars, so why not promote speed limiters for cars in addition to commercial vehicles?"

I made this precise point during second reading debate: that if this is all about road safety and if we believe that we need the technology of speed limiters in trucks to ensure that drivers of those vehicles comply with the speed limit, it's only logical that we extend this same legislation to every vehicle on the road. I fail to understand the justification for saying, "This is all about safety. It's about saving lives," and yet it's the truckers who somehow don't have the capacity to limit their speed to the posted speed limit, and somehow we have to zero in on this one industry and this one class of drivers to say, "Government is going to help you keep the law." I find it inconsistent and I find it still most puzzling, and I think the rationale for the argument that this is all about safety breaks down very quickly on this basis alone.

I want to continue with Mr. Crow's letter:

"Third: Enforcement tools such as photo radar can slow down all vehicles, not just trucks, but the Ontario government has rejected this for what we believe to be political reasons. If the chance of getting caught was increased and the penalty for speeding was significant, most speeding would be reduced. For those that speed regardless of the penalty—they will break the speed-limiter law as well."

Again, I raised this issue during second reading debate. We already have speed limiters in the province of Ontario. They're called speed limits. They're posted on every highway and every roadway. What we don't have enough of, obviously, is those who are enforcing those speed limits. The issue is not to overlay more regulation and red tape. I would much rather that we would be here debating a piece of legislation that mandates appropriate levels of funding for our front-line police officers, an appropriate level of funding for our justice system, or a certain number of justices of the peace to sit in our courtrooms, so that 90% of tickets that are issued aren't thrown out of court because there's no justice of the peace when the officer and the accused show up.

I get regular reports from York region Chief Armand LaBarge that tell me how many times his officers go to court and there is no justice of the peace, and those officers spend their time waiting, simply to have those

tickets thrown out. The other side of the report shows the number of times these tickets are bargained away—we heard a report this past week on our speed-racing law. I am frustrated and disappointed to know that a small percentage of the tickets that are issued are ever really dealt with. They're either plea-bargained away or, for one reason or another, don't get dealt with.

I'd like to continue with the rationale for the amendment I'm putting forward here:

"Fourth: You say that this is a safety issue. Can you name one fatality on Ontario highways caused by a motor coach travelling at a speed greater than 105 km/hr? In fact, can you name one collision on Ontario highways caused by a motor coach travelling in excess of 105 km/hr? There may be, but we don't know of one. So if there are few, if any, collisions caused by motor coaches travelling over 105 kilometres per hour, is it not fear-mongering to suggest, albeit indirectly, that our industry is unsafe and needs speed limiters?

"Fifth: You support speed limiters in motor coaches because it will achieve a reduction in fuel consumption. We point out the contrary. If motor coaches are restricted to 100 km/hr ... and our competitors (the passenger cars) are allowed to travel over 120 with impunity, then our commuter passengers will leave the coach and take their car to work. If buses transporting commuters between Barrie to Toronto, for example, are restricted to 100 km/hr and cars continue to travel at 120 to 130, the bus passengers looking out the window are going to decide that they can get to work" much "faster in each direction if they take their car."

Mr. Chairman, you know what the real speeds are on the 400-series highways. You've travelled them; I travel them every day. If I travel at 100 or 105 kilometres per hour, I can tell you that I will be considered to be driving dangerously because the speed limit is 120, and most of the time I feel I'm going slowly if I travel at 120. I try to keep it at 118, because that at least keeps me in the flow of traffic, and I'm told the chances are pretty good that radar won't stop me at 118. The point is that what we're creating here is an artificial limit of 105, according to this legislation. What does it do to the traffic flow, and what does it do to the passenger vehicles, which, according to all the appeals, are the better way and quicker way to get to work, when all of a sudden that's no longer the case?

I continue with the letter: "For those that support speed limiters in motor coaches, there is a competitive issue that they are missing. The proposed speed-limiter law for trucks can be considered fair, as all the 'competitors' hauling freight on the highways have to abide by the same rule. As mentioned" previously, "if one can get to work faster in a car, bus passengers will leave the bus and drive their car. Coach companies lose. You are putting the safer mode at a competitive disadvantage. To ensure fairness (in addition to the previous point), the OSL"—the Ontario Safety League—"should be advocating speed limiters on cars in addition to commercial vehicles."

And they should, if they're going to be consistent in terms of this argument.

0920

Mr. Chairman, I've made my points here. I think that Mr. Crow has made his point well. I, therefore, would ask the committee to seriously consider at least putting into legislation that passenger buses will be excluded from this legislation.

The Vice-Chair (Mr. Jeff Leal): Thanks, Mr. Klees. Just to remind members of the committee, section 108 of the standing orders clearly says that at committee you're allowed to speak for 20 minutes, unless unanimous consent is given to go beyond that 20 minutes.

Mr. Bisson, you're next.

Mr. Gilles Bisson: I don't know if that's a warning or just—

The Vice-Chair (Mr. Jeff Leal): No; the clerk just doing her job.

Mr. Gilles Bisson: My reputation somewhat precedes me, I guess. I don't know.

First of all, I want to say that we'll support this amendment for some of the reasons that were raised by my colleague. But I just want to go back and talk a little bit about where we're at and the impossible position we find ourselves in. Hardly anybody argues that we shouldn't do something in order to deal with greenhouse gas emissions. I don't think anybody's going to argue against that. I don't think anybody, including people in the trucking industry, is going to make an argument that we shouldn't do all that we can in order to try to make our highways safer.

However, we embarked on this process of this legislation saying that we were going to refer this bill to committee so that we can hear from people, hear what they have to say, to see if the bill is right, to see if things are the way that they should be, and then adjust our positions from there. Clearly, what we saw at committee—and unfortunately I wasn't able to be here last week. I had to be in my constituency for something else, hence the job of members, always having to be at five places at one. It is really clear: The overwhelming deputations that we got on this committee were that people had significant problems with this legislation.

So here's a conundrum. The committee is now going to sit. It had one day of hearings, 10 minutes per hearing per person. Maybe that was an error. The subcommittee probably should have given more time. I take part responsibility for that. I think all of us have our hands on that one.

But clearly, I think there was enough said in the last week's presentations that should tell this committee that we're not ready to send this bill to the House. This is the conundrum that I find myself in. I sit here representing a caucus that—I'll say it up front—is split on this legislation. We have some people who are in favour of it because of the environmental concerns. We have others, like myself, who are opposed to it, because I don't think this is going to make our highways safer; I think it will make them probably less safe in the longer run.

The environmental argument can be bought, to a certain extent. I look at the information that we were

given. It was probably about a 2% savings on fuel, if we can average all the trucks out to 105 and have a 2% reduction in greenhouse gases. I think the reality is that most trucks are already driving 105. So what are we saving? In the end, are we really doing anything environmentally?

If this was part of a green plan where the government says, "We have a green plan that includes a whole bunch of other things: emissions from industry; how we're going to deal with motor vehicles, including cars when it comes to emissions from the tailpipe; everything from how we deal with coal-fired plants in our province etc."—and this is part of an overall plan—I guess there may be an argument. But this is a stand-alone piece of legislation that's put out there as if it's going to make a huge difference to the greening of our environment.

I'm not going to say that it's not going to have any impact, but I come from the premise that most trucks are already driving 105 and sometimes slower. Why do I know that? I drive, as Mike Brown does, highways in northern Ontario that are part of the Trans-Canada Highway. We're often behind those trucks because there are not a lot of passing lanes where we come from. There are some, a little bit more on Highway 17 than in my part of the province, but on Highway 11, the Trans-Canada Highway, often we're behind those trucks and we're not able to pass because there aren't any passing lanes. Why? They're doing 105.

My point is, what are we doing here? If it is to help green our environment, why isn't it part of a larger green plan? Number two, if it's for safety, is this going to make our highways any more safe?

I've heard the submissions—I haven't heard, but I read the submissions that were heard last week. I've had the chance to have, last week, about 40 e-mails on this issue alone, which is quite a bit, quite frankly. You don't normally get 40 e-mails on one issue in one week. And it's not just from the trucking industry. This is the part that I thought was interesting. If it was all truckers, you'd say, "Somebody is doing a great job organizing." Certainly there's some organizing going on, but it's from the public who drive cars and who have to interface with large trucks on highways. They're worried about things such as the elephant races that'll ensue out of this. If you're on Highway 401—and I got a number of e-mails from eastern Ontario and from people down in the Windsor way who said, "Two trucks tried to pass each other on the 401, side by side"—you're going to have a whole bunch of angry, frustrated drivers of cars standing behind them, trying to figure out how to get by these two trucks trying to pass each other that are both doing 105 kilometres, which will lead to a more unsafe situation because the drivers, in frustration, might do something rash. We saw that in the presentations of the professor from Manitoba, who spoke at great length. I see we have the report here.

Here's where we're at: I'm wondering if there's any appetite on the part of the government side to say here in the committee, "Okay, you guys wanted to get this bill

done now; you wanted to get it done this spring." I'd be interested to see what the members on the government side have to say when it's their turn to speak. Are we prepared to allow this bill to have a little bit more time in committee to listen to the rest of the people who are e-mailing us on a regular basis and to hear what they have to say about this, and then go back and really look at this bill from the perspective of: If you're going to have speed limiters, how are you going to make this work, and what does it really mean to safety?

I'm going to support the amendment that was put forward by the Conservative caucus, in light of trying to find some way to ameliorate the effects of this bill on industry and on the motoring public. But this process that we're into, with one day of committee hearings and one day of clause-by-clause, I think serves huge dissatisfaction to the motoring public and to those people who are going to be most affected by this bill.

I look forward to the comments from the government. You're going to say, "Yes, we want more public hearings and we want to give people their say. We believe in democracy." So I look forward to that "yes" answer.

The Vice-Chair (Mr. Jeff Leal): Mr. Brown, please.

Mr. Michael A. Brown: Yes, I'll speak directly to the amendment put forward by my friend from across the floor. The amendment, in our view, is unnecessary. The bill provides regulation-making authority to the government to define a class of vehicles by weight, by year and by vehicle design, which would include buses. There is no intention of the government to include motor coaches—buses—in this regulation. We understand that this has to be done by regulation, as I think you would understand. We're working very hard with the province of Quebec at this moment. They have already passed similar legislation to ours. We want to, and I think all truckers and the public would want us to, rationalize the two regimes for speed limiting between the two provinces as much as possible. We are working very hard to that end. We will not move on including any other class of commercial motor vehicle until we've had full discussion with all the stakeholders involved.

I think those in the motor coach industry should take some comfort in the fact that the government wants to move forward in a step-by-step, reasonable fashion of implementing speed limiters to achieve our absolute top priority, and that is the environment. The reason the government brought this forward is that it is the government's view that we'll save 280,000 tonnes of greenhouse gases going into the atmosphere every year. That is why we are doing this. That is the primary reason. Safety aspects, although important, are not the primary motive here. We believe that this will also achieve greater safety on our roads, as witnessed by at least half the presentations we received last week at this time.

I can't support this. I think we need the flexibility to match it with Quebec, and Quebec has shown no interest in regulating motor coaches. So that's what we want to do.

The Chair (Mr. Jeff Leal): Mr. Bisson is next.

Mr. Gilles Bisson: If I were moving this motion, that wouldn't make me feel any better. The reality is that, first of all, we all know that the power of making regulation, or sometimes the problems most legislation, is that legislators put forward legislation with an intent to do A, and then bureaucrats, the minister and the PA get together after and have a discussion, and the regulations move us in direction B. What this motion is trying to do is to say clearly, "Let's set out that we don't give people with regulatory powers the ability to do this," even though the government said that it won't.

0930

First of all, in the end I don't trust just the word of the parliamentary assistant, and I don't mean that in disrespectful way, because I trust the honourable member. I've known him for many years. He has actually been here longer than I have; I've been here since 1990. I know him to be a truthful person. But you know as well as I do, Mr. Parliamentary Assistant, that once the bureaucrats get their hands on this bill, there's absolutely no guarantee that the regulations aren't going to do quite the opposite of what this amendment is trying to do. So on that basis I have no confidence. I've seen that show and you've seen that show too many times not to know that that's what has happened with legislation.

The other thing you're saying is that you're going to do the regulation in full discussion with the stakeholders. My God, what kind of discussion have we had with stakeholders up to now, and why should I trust that it will be any different when we do the regulations? If we can't give proper time to the stakeholders now to come to this committee and tell us what they're going to tell us about how this bill should or shouldn't be done, why should we trust that in a regulation process the stakeholders will be consulted adequately?

I look at my good friend the member from Algoma-Manitoulin, not Kapuskasing—that's the other guy.

The Endangered Species Act: As a northerner you will know that there are a lot of really upset people across northwestern and northeastern Ontario on exactly that issue. We had a bill that came into this House, this bill came into committee, amendments such as these were not accepted because we said we'd leave it to the regulation—"Trust us, it'll be okay"—and the forest industry, the communities in which the forest industry finds itself in and the workers were apoplectic at the process of regulation-making because the regulations are not doing anything near what people expected would happen under regulation. I don't trust that for two seconds.

On the last point, in regard to the point that this is going to save us a whole bunch of emissions going into the atmosphere: If everybody bought the argument that everybody is currently speeding, doing over 105 kilometres, the numbers stand up. But at the end of the day, do you know what is going to be the biggest speed limiter? It's the price of fuel. I drive a Ford F-150 up in northern Ontario, and now, when I drive up to Kapuskasing, as I did last Friday, I do 100 kilometres an hour for a really simple reason: It's 140 bucks to fill up

the truck with gas. There's no advantage for me to go to 110 kilometres and burn more gas.

The biggest speed limiter to the trucking industry is the price of fuel. My point is this: If I were to buy the argument that, yes, the price of fuel is cheap and that every truck on the highway was speeding and that speed limiters will bring them down to 105 kilometres, then the argument holds true that there would be an offset saving on the environmental side. But I think it's minimal compared to the reality: Most trucks are already doing the speed limit. A whole bunch of trucks, especially in large fleets, are already using speed limiters voluntarily, and those that are not are driving at the speed limit. Why? Because the price of fuel is expensive enough to deter you from doing anything like 115 or 120 kilometres.

The last reason—probably two. One is that they want to stay safe as drivers. They're among the safest drivers on the road, and the stats will show that, but the Ontario Provincial Police do a pretty good job of patrolling our highways. There's no upside for getting a ticket because, if you get too many tickets, you're not going to be making a livelihood driving a truck. My point is, let's not say that this is an environmental bill. At the end of the day, it will have some impact—I don't say that it won't have any—but it's not going to have the types of savings that my good friend Mr. Brown says. I reject the arguments of the parliamentary assistant.

I fully expect that regulations will come forward and that there will be very little in the way of consultation, and industry will be just as frustrated as the forest industry was over the Endangered Species Act, and still is. I will continue to support this particular motion.

The Vice-Chair (Mr. Jeff Leal): Mr. Klees, please.

Mr. Frank Klees: To my good friend the parliamentary assistant: I'm concerned about his response because it's the words he used that we've heard so many times in this place.

Let's parse his sentences a bit. He said, "We have no intention of including buses." The broader interpretation of that could be, "We have no intention"—and I'm sure you don't now, but that could change tomorrow. So I'm just concerned about the choice of words.

The next thing the parliamentary assistant said was, "We are taking a step-by-step approach to this." This is the first step. My concern is that the next step is to include passenger buses and all of the other classes. That's precisely what we want to avoid.

Finally, having had the privilege of sitting at the cabinet table, I know full well why you want to reserve these kinds of definitions in regulation: because you don't have to come back to the Legislature when you do want to include buses. It's an order in council. All you have to do is make a decision in cabinet. It'll take 30 seconds, sometimes quicker, and it's done. You affect an entire industry with that kind of decision-making. So that is why I brought forward the proposed amendment.

Finally—and I hesitate to do this, in one sense, but I feel compelled to—the parliamentary assistant assured us

that the ministry would consult with stakeholders in terms of the regulations. I'm sure that you also consulted with stakeholders, albeit a very narrow group of them, when this bill was crafted.

I'm going to read into the record part of an e-mail that relates specifically to this legislation. In preparation for debate, in preparation for this committee, I sent out a number of e-mails to stakeholders across the province asking them for their proposals for amendments. Here's what I got back from one of those stakeholders with whom the Ministry of Transportation consulted:

"As for the amendments, we have none, and in fact I would go further and say that we would be strongly opposed to any amendment. This is our bill. Every period, every comma, every semi-colon was put there by us, and we would be very, very unhappy were it to be amended in any way."

It goes on to say, "Sorry to be so blunt, but this is very important to us and the PC caucus needs to understand that we took their critical comments about the bill during second reading as criticisms of us and our view of what a responsible trucking industry should be. Again, this isn't Bradley's bill, this is our bill, and any comments about it—or proposed amendments—are not criticisms of him or the Liberals; they are criticisms of us and what we stand for, and we take them as such."

As a member of this Legislature who's been here now for some 13 years, I took serious offence to this. I can tell you that if consulting with stakeholders means that you consult with these people only, and that they'll have the same kind of control of your amendments as they claim to have had, to the point where "every period, every comma, every semi-colon was put there by us," then it's our responsibility in this committee to protect the rest of the stakeholders.

For that reason, I'm appealing to members of the government. The parliamentary assistant has said that there's no intention to include passenger buses. In that case, if there isn't, why don't we provide the assurance for this very major part of the industry and simply pass this amendment, be done with it, settle the affair and move on? Please, I appeal to members of the government to support this amendment.

0940

The Vice-Chair (Mr. Jeff Leal): Thank you, Mr. Klees. Further discussion? All those in favour of the amendment?

Mr. Frank Klees: A recorded vote.

Ayes

Bisson, Klees.

Nays

Aggelonitis, Brown, McNeely, Rinaldi.

The Vice-Chair (Mr. Jeff Leal): The amendment is defeated.

Mr. Klees, you have proposed another amendment?

Mr. Frank Klees: I have.

I move that subsection 68.1(6) of the Highway Traffic Act, as set out in section 1 of the bill, be struck out and the following substituted:

"Seizure of tampering device

"(6) If a police officer or officer appointed for carrying out the provisions of this act finds a device or equipment prohibited by subsection (3) in the course of any inspection of a commercial motor vehicle, he or she may,

"(a) request that the driver of the vehicle detach the device or equipment and submit it to the officer; or

"(b) detain the vehicle until the device or equipment is detached and submitted to the officer."

The reason for this is really for the protection of the officer or whoever may be involved in the roadside detection. It's very simply this: Enforcement officers are not qualified mechanics, and to allow them or require them to remove a device that may be hard-wired and attached to the vehicle may well cause damage to the vehicle, thereby, I think, implying potential liability not only to them but also perhaps to the ministry. The rationale is to protect the operation of the vehicle, as well as the liability of the province should an officer cause damage in the removal process.

The Vice-Chair (Mr. Jeff Leal): Discussion?

Mr. Gilles Bisson: It's an interesting amendment. I was actually holding off on deciding on what we were going to do on this amendment until I just heard that explanation. It would be interesting—and I don't know if anybody has an answer to that question. The device itself, as far as I understand it, is the computer that's already installed in the truck at the time of construction, at the time that the truck was built. So my understanding is that you activate the speed limiter by going to a garage and plugging it into one of those computers—whatever they call it—in the garage that programs the chip or that operates all of that.

My question to the parliamentary assistant and the mover of the motion is: Could you install a device of that type in the truck? I always thought that you couldn't put an on-switch or an off-switch on these things. I thought it had to be plugged in or hard-wired into the harness and then reprogrammed with the equipment in the garage. So a short answer to the question: "Can a device actually be hard-wired into the truck where the person can turn it on and off?" I don't know.

Mr. Michael A. Brown: I would not profess to be an expert on how these work, but I'm told that it would be highly unusual and probably counterproductive to hard-wire a device in. The reason for that is that you would hope to be undetected if you were tampering with the speed limiter. To hard-wire it in would be like telegraphing to anyone who knew anything about the engine that there was some tampering done. That's not to say that it won't happen. As we all know, technology moves at rapid speeds, and if there's a way to circumvent our regulations, someone's going to work very hard to find a market to do that, I presume, just because that's the way the world works.

I want to tell the member that I appreciate it. We've given this a great deal of thought too, and I think I understand where Mr. Klees is coming from on this. We do have some concerns, though. I think the problem is that it takes away the authority of the officer to do it if the officer feels very confident that he or she could do it without harming the vehicle in any way. The act does not require the officer to do it; it doesn't require the officer to do anything. The officer does have the authority now, or will have under this act, to hold the truck at the roadside until it's removed. The driver could remove it or a mechanic, either the driver's mechanic or the company's mechanic, could come and remove that, but the officer has the ability to hold that truck exactly where it is until that happens. Just to help the member: It doesn't require the officer to remove it; it just permits him to. There's quite a difference between "require" and "permit."

I'd kind of like to support this, but I don't think it does exactly what the member wants it to do, and therefore I think it's redundant. It doesn't really help.

The Vice-Chair (Mr. Jeff Leal): Mr. Bisson.

Mr. Gilles Bisson: For the parliamentary assistant: First of all, I'm not sure if I got an answer to my question. I'm not sure if you can actually install such a device. I wish there was somebody here who could tell me if that's possible or not.

The Vice-Chair (Mr. Jeff Leal): Mr. Bisson, we have some staff—

Mr. Michael A. Brown: I think we do have some people who could answer.

Mr. Gilles Bisson: That's why I'm asking.

The Vice-Chair (Mr. Jeff Leal): Sir, if you could identify yourself for the sake of Hansard and then respond to Mr. Bisson's question.

Mr. Gilles Bisson: Then I have one more little part to that. Thank you.

Mr. Mike Dodds: My name is Mike Dodds, with the Ministry of Transportation, carrier safety and enforcement branch.

The Vice-Chair (Mr. Jeff Leal): Mr. Dodds, could you respond to Mr. Bisson's question?

Mr. Mike Dodds: What we envision is very much similar to the radar detectors that the police are currently seizing—actually, a couple of weeks ago. We believe, in anticipation to this legislation being passed, that there are already devices on the market for about \$279. They fit in the cup holder of the truck. They plug into the cigarette lighter and into the port by a little cable that can be quickly removed and hidden from an enforcement officer. What it does is disguise the revolutions per minute of the engine so that the engine thinks it's running at a certain revolution per minute but actually it's running much faster, and you can gear it down to go slower.

Mr. Gilles Bisson: So the answer is that, yes, you could install it?

Mr. Mike Dodds: Yes.

Mr. Gilles Bisson: And it's not a huge job to plug it into the harness?

Mr. Mike Dodds: No.

Mr. Gilles Bisson: I always thought the harness was under the hood. That's why I was—

Mr. Mike Dodds: No. The harness is usually under the steering column or along the door well.

Mr. Gilles Bisson: Okay. Let me just ask this question: I'm the truck driver and I've got one of these devices. All of a sudden, MTO or OPP or whoever pulls me over. Am I able to easily unplug this device while I'm still driving my truck and have control of my vehicle? Or do I have to—

Mr. Mike Dodds: Yes. It's like pulling a power cord out of the wall.

Mr. Gilles Bisson: Including the hard wiring to whatever port you have to plug it into?

Mr. Mike Dodds: Yes. Instead of a three-pronged plug, it's a nine-pronged plug.

Mr. Gilles Bisson: That answers the first part. I understand the logic of the amendment now. Thank you very much. That was helpful.

To the parliamentary assistant: Your argument is that your current amendment says it only gives the officers the right to if they decide they need to. In simple English, it's "may"; it's not "shall." As I read this, it gives the officer the ability, if she or he decides, to ask the person to take it out—right?—which is the same effect that you have now in section 6 of the bill. If the person refuses or for whatever reason that doesn't happen—because the person doesn't know how or whatever—then you can detain the truck, which means that the truck is off the road.

The only thing that I think you could do to fix this, in order to make you comfortable, is by adding a (c), which says that in the event that all of it fails, then the person has the right to disconnect it if there's no co-operation. I'd be willing to support such an amendment to the amendment.

Mr. Michael A. Brown: This does not help in any way that I can tell. The officer has the right to detain—still does—for any reason under this act or for an unsafe vehicle, period, when it doesn't meet the regulations of the Ministry of Transportation. I'm trying to determine exactly what the member thinks is the advantage to this.

Mr. Frank Klees: If I may: It's very straightforward. As the parliamentary assistant indicated before, the legislation as it sits now gives permission to the enforcement officer to remove, to tamper. Personally, whether he or she may feel they're capable of doing it or not, there is a potential that damage may well be done to the vehicle. I just don't think we want that permission to be there. Yes, he can detain, and under this amendment he or she has the opportunity to direct the owner of the vehicle or the driver to have the mechanism removed. We lose nothing in the efficacy of what the intent is.

0950

Singularly, what we're saying here is that we don't want the enforcement officer to be the person to tamper with the vehicle. We believe that it can result in damage. To the parliamentary assistant: If damage is done, then we are now into an entire process for the vehicle owner

to have to claim damages, and we all know what that's like when you're dealing with government.

We're already laying on regulation here. Why are we creating one more potential for a business owner to have to get into a fight with government over claiming—whether it's a \$100, a \$500 or a \$5,000 bill, why would we expose the enforcement officer to that? Don't give them the permission; that's the very point of the amendment. I don't think they should have the permission. They should be required to take the step as it's outlined in the amendment.

That's the rationale. I thought it would be helpful to the government. I leave it at that. I think it's very simple, very straightforward. I thought it was a helpful amendment, and I would hope that government members would reconsider.

The Vice-Chair (Mr. Jeff Leal): Mr. Brown, do you have anything?

Mr. Michael A. Brown: I understand the spirit of the amendment. I guess I just don't share the view that our enforcement officers do not have the necessary knowledge and discretion to decide whether they could possibly do this without harming the vehicle. I have great confidence in the ministry inspection people to do that.

Mr. Gilles Bisson: To the parliamentary assistant: If that's the case, if that's the position the government is taking, would you support what I would term a friendly amendment that keeps your subsection 6(a) together, but in (b), have that say that the officer has the right, if there's no co-operation, to remove the equipment?

The Vice-Chair (Mr. Jeff Leal): Mr. Bisson, are you moving an amendment to the amendment?

Mr. Gilles Bisson: I'm asking, first of all, if he would be supportive, because I'm not going to bother otherwise.

Mr. Frank Klees: Certainly, I'll accept that.

Mr. Michael A. Brown: We do not.

Mr. Gilles Bisson: At the end of the day you wouldn't support the amendment anyway, so why go through the process?

The Vice-Chair (Mr. Jeff Leal): Valid question.

Mr. Michael A. Brown: I'm just cutting to the chase.

The Vice-Chair (Mr. Jeff Leal): Mr. Klees, do you want a recorded vote?

Mr. Frank Klees: Recorded vote.

Ayes

Bisson, Klees.

Nays

Aggelonitis, Brown, McNeely, Rinaldi, Zimmer.

The Vice-Chair (Mr. Jeff Leal): The amendment is defeated.

Mr. Bisson, you're next.

Mr. Gilles Bisson: I move that section 68.1 of the Highway Traffic Act, as set out in section 1 of the bill, be amended by adding the following subsection:

"Application to drivers

"(10.1) Where this section applies to a driver of a commercial motor vehicle, it only applies to the following classes of drivers:

"1. A driver who has not successfully completed a trucking training program,

"i. that is offered by a trade union, as defined in subsection 1(1) of the Labour Relations Act, or by a private career college registered under the Private Career Colleges Act, 2005, or

"ii. that meets the prescribed criteria.

"2. A driver who has been charged with an offence under section 128, 172 or 214.1, while driving a commercial motor vehicle, more than twice in the immediately preceding five years.

"3. A driver who has been convicted of an offence under section 253, 254 or 255 of the Criminal Code (Canada) committed in relation to driving or having the care, charge or control of a motor vehicle or street car within the meaning of this act or a motorized snow vehicle within the meaning of the Motorized Snow Vehicles Act."

The rationale is a fairly simple one. First of all, I want to go back to my original comment: Are we throwing the baby out with the bathwater with this legislation? I come from the premise that the majority of truck drivers—and the stats prove this—are already driving within the speed limits. If you look at the research that we've got, that we've asked for as a committee, truck traffic, by far, is within the speed limit in comparison to the rest of the traffic on the road. Number two: As I said earlier, most people are slowing down their vehicles because of fuel prices.

So if, at the end of the day, it is questionable that this is really going to add to truck safety and the safety of people driving on highways, why not apply this to the culprits, the people who do the speeding in the first place? That's basically the argument: that we apply the speed limiters to those companies or people driving beyond the speed limit as a deterrent for them not to do so. We would end up back in the same place again. It's deterrent legislation. Those who are the most guilty are the ones who would have to have the speed limiters—that would be the premise—the same way that if a person has unsafe trucks and they don't have a good CVOR, they get themselves into trouble.

The Vice-Chair (Mr. Jeff Leal): Discussion?

Mr. Frank Klees: Again, I think it's a reasonable proposal. If safety is a key issue for the government, if it has to be, then let's apply the mandatory requirement to those who obviously are a threat to safety. I'll support this amendment.

Mr. Michael A. Brown: I appreciate the amendment, but this would hinder the legislation's ability to provide the spectrum of environmental benefit across the board by restricting it to a relatively small number of vehicles and drivers within the system.

We don't see speed limiting as a penalty. We think this is something that is good for the environment and

should be practised across the board. I think the member is believing this to be a penalty for bad behaviour. That is not how the government sees this. The government sees this as an opportunity to save 280,000 tonnes of greenhouse gases. By restricting this to a certain number of drivers, we fail to see how that would achieve the end goal of the legislation.

Mr. Gilles Bisson: First of all, I listened to the minister's speech. The minister did say that there were two reasons he was doing this bill; one was the environmental angle and the other one was safety on roads. Clearly, the government sees this as an issue of trying to increase safety on our highways. So, just like speed limits and the fear of being caught by the police officer for speeding in your car or speeding in a truck deters people from speeding on highways and the high price of fuel that we have today deters speeding on highways, this would be another deterrent. That's the spirit in which this is brought forward.

I agree with the premise that most truck drivers are driving at the speed limit now. Most fleets already have speed limiters inside their trucks by their own choice. They want to make sure that their drivers don't drive over a certain speed because of the fuel costs. This would get to those others as a deterrent, by saying, "If you decide to speed you could be caught for speeding with radar by a police officer on the side of the road, and if you are caught, then we're going to put a speed limiter on and you're not going to be able to drive a truck unless there's a speed limiter." So it is a deterrent. That's the way I see it.

Mr. Michael A. Brown: That may be, but we don't see it as a penalty. We see it as something every truck should have, for the environmental benefit of the province of Ontario and, indeed, the planet.

Mr. Gilles Bisson: People who came here before us did see it as the opposite of what you make it out to be. Most truck drivers are saying, "We're responsible business people and operators of our trucks. We drive our trucks safely. Why? Because it not only makes sense from the motoring public's perspective of safety on highways, but it's also our own safety, and it makes more sense economically to slow down, take care of our vehicles and be better drivers."

1000

My thinking—again, I just bring this forward as an idea—is that fuel prices are already bringing the speeds down on highways. We heard Sergeant Cam Woolley, I think it was at the beginning of the week, on CBC Radio talking about how the OPP is now seeing an overall reduction in speed on our roads and highways because of gas prices. So we know anecdotally that people are slowing down because of the price of fuel, and—I don't like this idea—it's more than likely the price of fuel is not going to come down any time soon. I come from the premise that we're already seeing speeds come down, so we're already helping with the environment indirectly with sort of a carbon tax—it's not a carbon tax, if you know what I mean. The price of the fuel itself is making people slow down.

On the other side, from a safety perspective, we've heard all kinds of people talk about the dangers of putting governors on trucks when it comes to all of the trucks that are on the 400 series, Highway 17, Highway 11 etc. We will end up in a situation where the motoring public may become very frustrated, stuck behind two trucks trying to pass themselves on the 401 or in a passing lane somewhere on Highway 11 or Highway 17. This legislation allows us to increase driver and motoring public safety, and I just think that at the end of the day the price of fuel is really going to be the deterrent and will bring speeds down and offset the amount of gas emissions that we have into the atmosphere.

The Vice-Chair (Mr. Jeff Leal): Further discussion? Mr. Bisson, do you want a recorded vote on this one?

Mr. Gilles Bisson: Yes, I do.

Ayes

Bisson, Klees.

Nays

Aggelonitis, Brown, Rinaldi, Zimmer.

The Vice-Chair (Mr. Jeff Leal): It is lost.

Mr. Gilles Bisson: That's it. I quit.

The Vice-Chair (Mr. Jeff Leal): Amendment 3A, Mr. Klees, please.

Mr. Frank Klees: I move that section 68.1 of the Highway Traffic Act, as set out in section 1 of the bill, be amended by adding the following subsection:

"Exemption

"(10.1) This section does not apply to a commercial motor vehicle to which number plates that were issued in the United States of America are affixed."

I am, again, hoping to minimize some of the damage that I think potentially would arise from this. I have a number of e-mails in response to this proposed legislation, from truckers, carriers and owner-operators who operate out of the United States and do their business in Ontario or carry goods across Ontario, from Michigan into Ontario, who have said to me, and made it very clear, that if this legislation is implemented, they will be precluded from doing business as they have done because, as we know, there isn't a state in the United States of America that has this requirement. I believe that New Jersey is contemplating it, if I'm not mistaken. That was the research we had.

So, by passing this legislation, there is a serious implication to those carriers that are American-based, that do business now in Ontario. Because of the differentials in speed limits between Ontario and some of the US states, to have this speed limiter installed in their vehicles as a requirement of Ontario law would hamper their doing business as they're doing now in several states in the United States of America. Basically, they're saying that they won't do business anymore in Ontario.

I find it passing strange, at a time when Ontario is suffering, when all the warning signs are going up about impending economic doom here in this province, that we would put legislation in place now that would hurt business as it's being done today in the province of Ontario—I just find it passing strange.

I have here a notice that “a claim will be brought against the government of Canada, filed under chapters 6, 9 and 11 of NAFTA, as a result of” this legislation being proclaimed by the government of Ontario “requiring the mandatory installation of speed limiters on all trucks entering and operating in Ontario. The Owner-Operated Independent Drivers Association, which will be bringing this claim, has been advised by its Canadian counsel, Ogilvy Renault, that the mandatory requirement to install a speed-limiter system will cause prejudicial and unfair treatment of US truckers entering the province.”

We've seen before how this government barrels ahead with breakneck speed with legislation that they had warnings about from the opposition and from stakeholders. But they always know better and, on a number of occasions, have had to backpedal and, after all of the process, have actually been ordered by the courts to go back to the drawing board and revise their legislation—the most recent about two months ago with regard to the adoption legislation. Our own privacy commissioner raised concerns about that legislation. Nevertheless, the government passed it and then was ordered by the court to revise their legislation. What I'm hoping to do with this amendment is to save the government some of that agony, because the rationale, quite frankly, makes some good sense.

For the benefit of committee members, I want to provide some information regarding some of the inserts included in that NAFTA challenge for your consideration:

“According to studies and data, 96% of the American trucking industry is comprised of small business owners. Approximately 70% of small business owners do not activate the speed limiter, that is, calibrate the electronic control module to limit the vehicle to the maximum proposed speed. OOIDA represents approximately 162,000 small business owners with approximately 240,000 trucks on the road. Based on an OOIDA survey of its membership, 39% regularly operate in Ontario. When asked in that same survey if those members will continue to provide transportation services to the province if Bill 41 passes, 88% said no. That's over 60,000 individuals and 80,000 trucks that now haul literally hundreds of thousands of loads each year into and out of Ontario that would no longer do so. These members will be disproportionately impacted by this legislation. Please note: OOIDA only represents approximately half of the existing small business owners in the United States; therefore, the numbers should be doubled, which would be estimated at 120,000 small business owners and 160,000 trucks controlled by small business owners.”

The claim goes on to say, “OOIDA has also been advised by its counsel that the NAFTA challenge will

stand because NAFTA prohibits the imposition, enforcement or requirement of a purchase that accords a preference of goods or services provided in Ontario. Under Bill 41, small business owners who wish to continue conducting business in Ontario must activate a speed-limiter setting in compliance with the statute or lose their competitive advantage when operating in the United States, particularly in those 23 jurisdictions with posted speed limits above 105 km/h (65 mph). Therefore, in order to continue conducting business in Ontario, it would become necessary to visit a mechanic at the border of Ontario to enable the speed setting and to visit a mechanic upon exiting the province to readjust the setting. Our research indicates that this service will cost approximately \$250 to \$300 per visit, which does not include the downtime and loss of productivity the small business owner must contend with.”

1010

Again, in the interest of helping the government avoid a NAFTA challenge and the embarrassment of losing, I would expect that members of the government would support this amendment.

Mr. Gilles Bisson: I think this is a question I want to have somebody from the ministry come before us to—let me ask the question and you can decide who's going to come and answer it. I understand full well what the member is trying to do, and I have some support for him not applying this legislation to trucks outside the province of Ontario. I understand the logic of the argument, so I'm not opposed to what he's trying to do. I'm just wondering, if we end up saying that this legislation doesn't apply to trucks outside Ontario, will that put the Ontario trucking industry in the position of registering trucks outside of Ontario driving within the province? If somebody could come and answer that question, that will help me decide what I'm going to do with this amendment.

The Chair (Mr. Jeff Leal): For Hansard purposes, could you just identify yourself, please?

Mr. Chris Brant: Yes. I'm Chris Brant. I work with the carrier safety policy office with the Ministry of Transportation.

The Chair (Mr. Jeff Leal): Could you respond to Mr. Bisson's question, please?

Mr. Chris Brant: Yes. There is always the risk that carriers—although you can never predict reliably how people react. They do have businesses set up in Ontario, but it's not unusual for companies to set up for registration purposes in other jurisdictions under the international registration program. In Canada it's not an uncommon practice to do that. So certainly it's not out of the realm of possibility to do that.

Mr. Gilles Bisson: It could happen but not necessarily, I guess is what you're saying.

Mr. Chris Brant: That's right.

Mr. Gilles Bisson: Just as a supplementary question: If I'm an independent truck driver and I have one or two trucks and let's say I'm doing business out of Sudbury, how difficult would it be for me to register my truck in Manitoba, for example, and operate in Ontario?

Mr. Chris Brant: I don't know the Manitoba registration requirements, but I imagine you would need, at a minimum, a post office box. Some may require some sort of place of business in the province that demonstrates that you've got some sort of a—

Mr. Gilles Bisson: There would be a cost associated with it, so they may not go that way.

Mr. Chris Brant: Yes.

Mr. Gilles Bisson: Okay, that answers my question. Thank you, I appreciate that. That was my only thinking. I'd just like to hear what the mover of the motion feels about that, because I don't want to be in a position where we're allowing our trucking industry to flee Ontario. We have enough job loss in this province, given what this government's record is on joblessness in this province, in northern and southern Ontario. What are your thoughts on that?

Mr. Frank Klees: If everything we hear from the ministry—that there is such overwhelming support for their legislation—is true, then we have nothing to fear. But I do think we have a responsibility in this Legislature to ensure that business overall, first of all, is not negatively affected, that we're not driving people away from Ontario who are doing business today, and that we're not imposing our legislation—which, by the way, I don't think is good legislation—on another jurisdiction. The underlying issue, that there will be a NAFTA challenge—as a legislator, I don't want the embarrassment on my shoulders, to be seen to be driving business from a jurisdiction that desperately needs business.

Mr. Gilles Bisson: It's a good explanation or a good answer to the question. I guess the answer is: At the end of the day, although it is possible that people can do this, what I heard from the ministry is that economically it probably doesn't make a lot of sense. If I have to prove that I have a place of business in the States or in Manitoba etc., that might preclude me from taking that option, because God knows the independents aren't making a heck of a lot of money now and can't add anything to their cost structure.

I thought the point by the parliamentary assistant was interesting. If this is such great legislation, people should be jumping out of the woodwork to sign up, right? I appreciate that. I think it speaks to the larger problem that we have with this legislation, and that is, what do you do with legitimate truckers who operate from outside this jurisdiction and have to transport across Ontario or come to Ontario? And what do we do with drivers from Ontario who have to go into the States and Manitoba and other places? One of the things I've been hearing a lot from the trucking industry is, "I do business out of Trenton"—or Kingston or Sudbury or Hearst, wherever it might be—"and I long-haul into the United States. I have a speed limiter, because by law I have to have it here in Ontario, but then I go into another jurisdiction that has speeds above the speed I can legally drive at with a speed limiter in Ontario."

It puts them at a cost disadvantage with other drivers, because they are driving within the speed limit of the

jurisdiction. And correct me if I'm wrong, but some of the interstates are as high as 120 kilometres per hour. Clearly, those jurisdictions have felt that 120 is safe for the highways they have, and we all know that speeds are based on the highways that we have. The straighter the highway and the more lanes you have, the faster you can go, probably. The more winding and hilly the road, the lesser the speed should be.

The long and short of the story is that we're going to have an economic disadvantage for the haulers from Ontario going into other jurisdictions because they're going to be limited by their speed limiters. They're not going to be able to shut them off once they drive into that other jurisdiction. So that's one side of the argument. And it puts them at a cost disadvantage, possibly not being able to compete for the business of hauling into the United States. The government says the answer to that is, "We'll apply the legislation to those in the United States," right? Hence what this amendment is all about.

For those people who are hauling in from the United States—and let's say that only part of their business is hauling into Ontario; 40% or whatever it might be—they may very well decide that they can't haul in from the States at a positive cash flow. If they've put the speed limiters on their trucks and they're not allowed to turn them off, how are they going to compete when they're hauling the rest of the loads into the United States?

I think the amendment, although not perfect, speaks to the issue or at least addresses one side of the problem. It doesn't address the other side, which is the Ontario trucks trying to get out of Ontario. I'd like to hear the parliamentary assistant talk about how we deal with those people who are in Ontario and doing business outside of Ontario. At what point does this put them at a disadvantage, and vice versa, those people operating outside of Ontario coming in? I'd like to hear what the parliamentary assistant feels and has to say about that in his own wonderful way.

Mr. Michael A. Brown: I'm shocked, absolutely shocked, that anybody would suggest that you can operate a motor vehicle in Ontario and not comply with our laws, whether it's the length of the truck, axle weight, all of those things. Every trucker who operates in Ontario has to follow the rules of Ontario. And I am shocked that any member of the Ontario Legislature would put forward a position that Americans don't have to obey the laws of Ontario. We are confident that we will win any NAFTA challenge on the basis of the environment and safety.

If there are members in this Legislature who want to give up Canada's and Ontario's sovereign right to govern our province, go ahead and advocate it. We're voting against it.

Mr. Frank Klees: I've never seen Mr. Brown so animated.

Mr. Michael A. Brown: I am.

Mr. Frank Klees: He must have been practising in front of a mirror this morning.

No one is suggesting that anyone not obey our laws. What I'm proposing is that we create good laws here and

that the law of Ontario would not require trucks operating out of the United States to comply with what I think is flawed legislation here, notwithstanding that the government insists on applying it to Ontario truckers. So from that standpoint, certainly, everyone has to comply, and from the tone of Mr. Brown's rhetoric, apparently this amendment won't fly either.

1020

If it is in place, I'll be the first one to say that American-based trucks will have to comply, of course. I'm simply trying to save the government some embarrassment. I'm trying to save a lot of Ontario businesses that now do business as a result of products being transported into Ontario by American-based trucking companies. I think that there will be an impact to Ontario businesses as a result of this flawed legislation being put into place. That's the rationale behind this proposed amendment.

Mr. Gilles Bisson: I'm in a conundrum, because I partly support the argument by Mr. Brown. I think we are a jurisdiction and we have—you didn't convince me. That's the reason I raised these flags at the beginning, quite frankly. But we haven't dealt with the essential issue, which is: How do we as Ontario industry compete with an industry that is North American if we limit our people in how they're able to drive as they get into other jurisdictions? Effectively, what we're doing is we're taking an Ontario regulation or law, and even though there's no law in the other jurisdiction, we're forcing them to follow an Ontario law even when they're outside of our own jurisdiction. The speed limiter can't be turned off when you go into the other—

Mr. Michael A. Brown: It can be.

Mr. Gilles Bisson: How are you going to do that? You can have a device to turn it off? This is interesting, because—I want to hear more—the parliamentary assistant is saying that Ontario truckers will be able to turn off their device when they go into the United States. Tell me how, please.

Mr. Michael A. Brown: I think I'd ask somebody from the ministry to come up and explain that for you.

Mr. Gilles Bisson: Thank you.

The Vice-Chair (Mr. Jeff Leal): Sir, could you identify yourself for Hansard?

Mr. Gilles Bisson: This is news to me because I've been lobbied quite the opposite.

Mr. Mike Dodds: Mike Dodds, again.

Mr. Gilles Bisson: Mike Gods?

Mr. Mike Dodds: Dodds.

Mr. Gilles Bisson: Oh, Dodds. I was going to say, "Thank you, Lord."

Mr. Mike Dodds: Was the question how to turn it off, or how are Ontario trucks going to be productive in the States?

Mr. Gilles Bisson: My point is that you heard my argument, and in making the argument, the parliamentary assistant says that Ontario trucking industry trucks will be able to turn off the speed limiters as they drive over the border into Manitoba or into the United States. If so, how is this going to be done?

Mr. Mike Dodds: There are several ways. Initially, when you go to set it up—you are actually very familiar with it—it's just a setting in the computer. It takes under an hour of shop time, so \$100 usually, if you don't have a speed limiter equipped to set it the first time. There are a number of different ways of setting it on the fly. We expect that most people will just leave it, because cost-benefit analysis has shown that you're 6% more productive if you're operating at 105 kilometres, even if the speed limit is 75 miles per hour or 120 kilometres.

The first way would be to purchase a laptop computer with your specific engine manufacturer's software. The estimated cost of that would be anywhere between \$1,500 and \$3,000. Then you have full control over your engine. You can change any setting you'd like.

Another option is that some engine manufacturers like Cummins have smaller, inexpensive devices; they have a QC5100. It's a little PDA-type device that allows the driver to optimize his fuel economy, power settings and everything on the fly. He can plug that in, and for \$700, he can have full access to control the speed-limiter setting that way.

There are other companies, such as Magtech out of Alberta, which offers a product for \$2,000 installed, in addition to all kinds of other features. It offers dispatchers, or automatically for the truck to be speed-limited. They've set a geo-fence around Ontario. As soon as a truck crosses into Ontario, it automatically limits the speed to 105. Upon exit, it will ramp it up to whatever the driver would like it to be.

Mr. Gilles Bisson: I guess the first obvious question is this: I thought it was illegal under this legislation to have a device that tampers with the speed limiter, so are any of these devices illegal in Ontario under this legislation?

Mr. Mike Dodds: We wouldn't consider these devices illegal. If we see a laptop computer with the settings open, it will be an enforcement matter to be dealt with. Our officers will be trained on these laptop computers with the specific engine manufacturer's software to determine, if the speed limiter is on, what other settings might be tampered with. It also creates a log as to when the speed was set and reset. It's a computer, so it maintains a constant flow of data.

Mr. Gilles Bisson: But somebody could write a program that tricks the log, right?

Mr. Mike Dodds: Correct, yes.

Mr. Gilles Bisson: My simple question is about the QC5100, which is the \$700 option: If I'm driving in the province of Ontario and driving out of the jurisdiction, you're saying that I can press some buttons or some combination of things that allow me to do what I've got to do in the other jurisdiction?

Mr. Mike Dodds: Exactly. It would require you to stop the truck, plug it in, HotSync with the truck and start the engine again to reboot the engine's computer so it has the settings.

Mr. Gilles Bisson: But if I have that device in my truck, would that be considered an illegal device under

this legislation if it's found in my truck at a way station or being pulled over for speeding?

Mr. Mike Dodds: With the studies, we don't know. We wouldn't consider that. We'd consider a tampering device a tool the driver uses to optimize his fuel economy. The device I mentioned earlier is definitely a tampering device; its only function is to tamper with the speed limiter.

Mr. Gilles Bisson: I'm going through these in a particular order because one of the concerns that we have is the issue of: What do you do when you get outside Ontario? What do you do when you come back? What I've been hearing from every submission that we've had up to now and all the e-mails I've gotten up to now—and I didn't hear anybody say to the contrary—is that the legislation says that you will not have any device in your vehicle that could be used to tamper with a speed limiter.

I want to put this on the record really clearly: I'm company A and I've got 1,000 trucks, or I'm broker 1 who's got one truck. I buy a laptop with the software for 1,500 to 3,000 bucks. I'm driving down the highway. I get pulled over in Ontario. It's not plugged into my machine; it's not plugged into my truck. I won't get charged?

Mr. Mike Dodds: That's correct.

Mr. Gilles Bisson: I want you to put this clearly on the record: I will not be charged?

Mr. Mike Dodds: We foresee the tampering devices coming. That's why we need that regulation, making power in the regulation, so we can specifically state that, say, this ProScan speed-limiting tool is a tampering device. That's what enforcement officers can seize, not a laptop. Strictly by policy and procedure, no, enforcement officers and police will not be mishandling or seizing these other devices.

Mr. Gilles Bisson: Okay, so as long as my laptop is not turned on, plugged into my truck, I can have it in my truck and I won't be charged?

Mr. Mike Dodds: In my mind, yes, that's exactly the way I see it.

Mr. Gilles Bisson: Okay, because at one point this will be used in a ticket somewhere, I'm sure, right?

QC5100 or similar devices, same thing: If it's in my truck and it's sitting there dormant and it's not being utilized, and I get pulled over and the enforcement officer, the police officer, sees it, he or she will not charge me for having that in my truck if it's dormant?

Mr. Mike Dodds: Correct.

Mr. Gilles Bisson: I think this other one is really interesting. You learn so much in committee.

We already know that most trucks are tied to GPS and this is, I take it, how this would work, right?

Mr. Mike Dodds: It works on GPS, satellite communication or cellular, any of the above.

Mr. Gilles Bisson: So if I'm the fleet and I have 1,000 trucks, I can put in a device, tied to my computer somehow, that says that once I get out of this jurisdiction—and that's defined by the satellites, because we all know that we can define pretty closely where the

border is on a GPS device—it would automatically turn off the speed limiter leaving the province of Ontario. First of all, that's how it works.

Mr. Mike Dodds: Correct.

Mr. Gilles Bisson: And if that thing is hardwired—because it has to be hardwired—inside my truck, I will not be charged if it's hardwired in my truck, if it's not set to reduce the speed while I'm in Ontario?

Mr. Mike Dodds: Correct, yes.

Mr. Gilles Bisson: Could a dispatcher inadvertently or purposely bypass this system?

Mr. Mike Dodds: Right now I don't know. We're actually going to meet with this company to discuss their technology a little further on the 18th.

Mr. Gilles Bisson: So it's a dispatcher or somebody back at the central office who would turn—or is it just a computer?

Mr. Mike Dodds: Originally, before this legislation was even conceived, it meant that if a truck got hijacked the dispatcher could ramp it down in increments of 10 miles per hour at a time until the vehicle was totally inoperative.

1030

Mr. Gilles Bisson: I wouldn't want to do that in an airplane, because eventually I'd fall out of the sky. If there's anything called the stall speed—thank God it's not on my GPS.

I'm just curious about this technology being hardwired inside the vehicle. Could it be turned off—just simply a dispatcher goes in and he has an arrangement with a buddy who's on the truck? Could that happen?

Mr. Mike Dodds: I'm not familiar enough with it to state that absolutely clearly, so I'd rather not.

Mr. Gilles Bisson: Because the question becomes: How does MTO prevent truckers from using the legal device to speed, right?

Mr. Mike Dodds: Exactly.

Mr. Gilles Bisson: So for the record, you're saying that there will be an ability for people to turn these things off as we go outside of Ontario by some means, and as long as it's not active but passive while in Ontario, it will not be seized and you won't be charged under this act.

Mr. Mike Dodds: Correct.

Mr. Gilles Bisson: That's interesting. Thank you very much.

The Vice-Chair (Mr. Jeff Leal): Further discussion? Mr. Klees, you want—

Mr. Frank Klees: A recorded vote, please.

Ayes

Klees.

Nays

Aggelonitis, Bisson, Brown, McNeely, Zimmer.

The Vice-Chair (Mr. Jeff Leal): I declare it lost.

Mr. Gilles Bisson: I will withdraw my next amendment because it was related to the other one.

The Vice-Chair (Mr. Jeff Leal): I was just going to ask you, Mr. Bisson. Thank you so much.

Mr. Gilles Bisson: Oh, I always try to help. You know me; I'm just a source of helplessness.

The Vice-Chair (Mr. Jeff Leal): Extremely helpful.

Mr. Michael A. Brown: Which one are we at?

The Vice-Chair (Mr. Jeff Leal): We're now on PC amendment 5. Number 4 has been withdrawn by Mr. Bisson.

Mr. Frank Klees: I move that clauses 68.1(11)(g), (h), (i) and (j) of the Highway Traffic Act, as set out in section 1 of the bill, be struck out and the following substituted:

"(g) requiring that an operator of a transportation enterprise keep records related to the maintenance, activation and function of a speed-limiting system and, upon request, make the records available to a police officer or officer appointed for carrying out the provisions of this act."

This simplifies the requirements to have maintenance records maintained. There is already significant imposition on the part of government on private business in this province. I think the prescriptive provisions, as set out in the bill as it is now, will be potentially onerous and potentially costly—unnecessarily so—to the operator. This still maintains the requirement for record-keeping and maintenance but streamlines and simply removes the onerous aspect of the legislation.

Mr. Michael A. Brown: We see this as reducing the regulation-making powers with regard to the legislation, particularly with regard to inspection, the documents to be carried by the drivers and exemptions. It adds a requirement that operator records will be produced.

I think the member needs to understand that we are working very hard to harmonize our regulations with the province of Quebec, which is doing the same thing. We also know of two other Canadian provinces that may be proceeding down this path. We would like to have the regulation power to ensure that we have the ability to line up our regulations with the other provinces. We would not be making regulations—and I know the argument's going to be, "Why don't you put it in legislation?" But we would not be putting the regulations in place without consulting with the industry and making sure that while the enforcement people get the information they need, it should be not be unduly restrictive or onerous upon the driver, the operator or the carrier.

The Vice-Chair (Mr. Jeff Leal): Further discussion? Mr. Klees?

Mr. Frank Klees: I've made my point.

The Vice-Chair (Mr. Jeff Leal): Mr. Bisson.

Mr. Gilles Bisson: I'm trying to get my head around this one, quite frankly, because I missed the beginning of it. Can you explain again, Mr. Klees, how it's different, just so I clearly understand what you're trying to do with this?

Mr. Frank Klees: Very simply, what I'm trying to do is streamline the requirements for reporting and maintenance records. I think the government's requirements are very prescriptive. We're dealing with many independent owner-operators who don't have the resources of clerical support to put the requirement in place that there has to be a maintenance record, that it must be produced when it's requested, and there are obviously consequences if they don't. It's simply a matter of trying to reduce the red tape, the regulatory burden, on independent business.

Mr. Gilles Bisson: What's the argument against?

Mr. Michael A. Brown: The argument is that we intend to do this by regulation. But we do have, as you would appreciate, some difficulty when we're talking to Quebec. We'll be talking probably to at least two other jurisdictions about this, and we want to make sure that, as Mr. Klees is making the case, these regulations are not onerous, that they are reasonable and that the driver and the owner-operator, the carrier or whoever it happens to be will be able to comply, with the least amount of intrusion. We would like this to be the same across the board, and across the country eventually, I think. We want the ability to do it by regulation.

The argument here is whether it's by regulation or by legislation, and our view on this is that, because we are in negotiations with other provinces, we would prefer that it be by regulation.

Mr. Gilles Bisson: I don't see this amendment being in the way of trying to harmonize what we're doing between Quebec and Ontario, and I agree with the argument from Mr. Klees that, at the end of the day, the last thing we want to do is burden people with even more of the administrative burdens that they have under this act, or any other. So I'll support it on that basis.

Mr. Frank Klees: A recorded vote, please.

Ayes

Bisson, Klees.

Nays

Aggelonitis, Brown, McNeely, Zimmer.

The Vice-Chair (Mr. Jeff Leal): It is lost.

Mr. Bisson, please: number 6.

Mr. Gilles Bisson: I'll read the motion first. I know it's going to be supported, so I'm looking forward to the support on the government side.

I move that section 68.1 of the Highway Traffic Act, as set out in section 1 of the bill, be amended by adding the following subsections:

"Annual report

"(12) The minister shall prepare an annual report on the implementation of this section which shall include,

"(a) a list of regulations made under subsection (11) in the previous 12-month period;

“(b) an assessment, including statistics, on the impact of the use of speed-limiting systems in commercial motor vehicles;

“(c) an estimate of the costs relating to the use of speed-limiting systems in commercial motor vehicles; and

“(d) the number of charges laid under subsection (8) in the previous 12-month period.

“Report tabled

“(13) The minister shall table the annual report in the Legislative Assembly if it is in session or, if not, at the next session.”

The rationale to this is actually quite simple. I think that one of the problems we get into here in the Legislature is that often we draft legislation with good intention. I’m not saying that the government introduced this bill with bad intention; I’m sure that’s not the case. We think we get it right, we have a debate at second reading, we hope we’re listening to each other—probably not, sometimes—we bring it to committee, and we allow the public and those affected by the bill to come and tell us why it’s wonderful or why it’s terrible. Then, based on the submissions that we hear, we supposedly amend the legislation to make sure we get it right, that we listen to those affected and learn from them what we could do better to make the legislation work.

Unfortunately, that process is flawed. We know that in this committee by way of Bill 41 we’ve had very limited public hearings. We haven’t really had a chance to listen to the rest of the people whom we needed to listen to on this particular bill and, clearly, as we’re going through clause-by-clause this morning, we’re not amending the bill in any way, shape or form to respond to the issues that have been raised by the public that came before this committee.

The purpose of this amendment is quite simple. It’s to say, “All right, if this is good legislation, the minister should table the report in the House every year” so that we understand how this bill is affecting the motoring public both from an environmental perspective, because there is something environmentally positive to this bill—arguably, how much is the other question—and to see what it means to road safety so that we as legislators could at least look at the report and say, “Ah, this thing is working the way it should.” “Hooray,” says the government, and gives itself accolades, or we see that there are some problems that need to be re-looked at by this Legislature and we can amend the bill in the future in order to make it do what it was intended to do in the first place.

I see this as a friendly amendment, and I look forward to the support of the government side of the Legislature, because I know they believe in democracy and want to do the right thing.

The Vice-Chair (Mr. Jeff Leal): Question period will commence in five minutes. I know that Mr. Klees has to leave in preparation for question period. We’ll recess now and come back at 2 o’clock this afternoon.

The committee recessed from 1040 to 1403.

The Vice-Chair (Mr. Jeff Leal): We’ll bring the meeting of the Standing Committee on Justice Policy back to order.

When we left this morning, Mr. Bisson had the floor, so we’ll go back to Mr. Bisson.

Mr. Gilles Bisson: I made the argument this morning, but just to recap very briefly: We want to insert a section in this legislation that allows this bill to be reported back to the House as far as what the effect of the bill has been. We do that often with a number of other pieces of legislation, where we’re able to learn whether it’s working: if there are problems, if we need to adjust, if we need to tweak it. That’s the sense in which this particular motion is put forward. So, as I said earlier this morning, I look forward to support from the government side on this amendment, and I look forward to the comments from the members across the way.

Mr. Michael A. Brown: I would just tell my honourable friend that as a normal course of business within the ministry, we monitor all programs to see that they achieve the goal. The ministry has a very effective quality control system.

Mr. Gilles Bisson: They’re understaffed. They haven’t got the power to do that stuff. You have to give them some more staff.

Mr. Michael A. Brown: Therefore, we think this is redundant. The information is available. Reporting to the Legislature is probably a burden that is not necessary.

I want to tell the member that it is not the intention of the ministry, once the regulations are put in place—that we aggressively, overnight, put these in place. There will be a transition period where the trucking industry understands what is required of them. There will be an education component so that the truckers know what is required of them, why it’s required of them and what they will have to do. It is not something that is going to be imposed overnight, because I don’t think that would work for the industry, nor would it work for government. This requires some good buy-in by the participants, and we intend to do that. As we move through this process, I think there will be a higher level of comfort for members with the way this is going forward.

Mr. Gilles Bisson: I guess there are two points. The short answer was no. So let me respond to why I think it needs to be asked. No disrespect to the staff at MTO; they’re fine professionals who work very hard. I know that because I’ve been here for some 19 years and have had the chance and the privilege of dealing with MTO staff at the regional and local offices across this province. So this is not an attack on the people who work there. The problem is that they’re pretty overstretched. More and more has been asked of them, and there are fewer and fewer of them. When I first came to this Legislature in 1990, there were far more MTO staff than there are today. So I think it’s difficult to ask the ministry—unless we’re prepared to give them the dollars—to do the job of monitoring this at the end, once it’s finally implemented. I’m sure there are great intentions within the ministry, but I just don’t believe they have the capacity.

The other thing I would say to my honourable—

Interruption.

Mr. Gilles Bisson: It's not me; I don't carry those things around. Who has their BlackBerry running?

Mr. Frank Klees: The parliamentary assistant.

Mr. Gilles Bisson: I can't believe it. I can't believe the PA would have his BlackBerry on.

The other point is that the parliamentary assistant, my honourable colleague from Algoma-Manitoulin, said that it would be a burden to bring this back to the Legislature. It's never a burden to bring matters before the Legislature. Quite frankly, that's what we're there for. Is it a burden on the ministry? No, because they don't have the capacity to deal with it. So I don't believe that having to report back to the Legislature is a burden on anybody. The issue is, we need to make sure that we get this right, and if there are problems, this is a mechanism to deal with that. Quite frankly, I would see this as a positive amendment to the legislation and wonder why the government would take the position they do.

Mr. Frank Klees: I'd like to support this amendment for precisely the reason the parliamentary assistant made reference to: quality control at the Ministry of Transportation. I'll be the first one to support the quality of work that's being done in that ministry—very dedicated people. But I do believe that it would be the very people working at the Ministry of Transportation who would also support this, and the reason is this: I would suggest that probably nine times out of 10, if something falls through the cracks, it's because of a lack of resources available to the staff there. The reporting back allows an identification of that lack of resources and would give a great deal of strength to the civil servants who have responsibility for implementing it. It gives them an opportunity in the course of that report back to identify where we need some shoring up of resources. So I don't think this should be viewed in any way as an affront to the quality of service that's being provided. I do think it should be seen as an opportunity to support the ministry in doing its job.

Mr. Michael A. Brown: Just to recap, the ministry will be auditing this program to see that it meets the targets it has in front of it. That will be available, and we all know around here that there are certain accountability mechanisms available to members. One would be a freedom of information request, but more important would be the estimates committee, if you choose to ask the ministry to come before estimates, where you can explore this—any member could, to their satisfaction—or the public accounts committee, which is always vigilant in making sure Ontario's tax dollars are spent appropriately.

The Vice-Chair (Mr. Jeff Leal): Further discussion?

Mr. Gilles Bisson: I get the sense that I'm going to lose this amendment. I don't know. Maybe it's just the way I'm feeling today; I'm very sensitive. I know that Mr. Levac always likes to support me, because we're good friends.

I just say that estimates process is—

The Vice-Chair (Mr. Jeff Leal): I'm sure Mr. Levac can speak for himself. He always has. So continue, Mr. Bisson.

1410

Mr. Gilles Bisson: I'm sure he can. He's very good at it.

I would just say that estimates committee—a bit of a different process. You ask questions of the ministry and the ministers who are here and you're sometimes provided answers to questions, but it doesn't give you the type of analysis that you need. Estimates is a very different process, as you well know. It allows you to ask specific questions around particular spending areas and allows you to look at policy direction—there's no question about that—but it doesn't allow you to do the type of analysis that needs to be done. Public accounts maybe, but there's no guarantee—and this is the point—that public accounts, because it's a selection by the subcommittee, as to what is going to be reviewed, or that this would be reviewed at all. That's the reason that I wanted this particular amendment.

The Vice-Chair (Mr. Jeff Leal): Further discussion? Mr. Bisson, do you want a recorded vote on this?

Mr. Gilles Bisson: I certainly do, boss.

Ayes

Bisson, Klees.

Nays

Aggelonitis, Brown, Levac.

The Vice-Chair (Mr. Jeff Leal): It is lost. Shall section 1 carry?

Mr. Gilles Bisson: Recorded vote.

Ayes

Aggelonitis, Brown, Levac.

Nays

Bisson, Klees.

The Vice-Chair (Mr. Jeff Leal): It carries.

Shall section—I'm sorry. Mr. Bisson, please. Sorry about that. I apologize.

Mr. Gilles Bisson: No, you caught yourself, Mr. Chair, and that tells me you're paying attention and you're on the ball.

I move that section 2 of the bill be struck out and the following substituted:

“Commencement

“2. This act comes into force on January 1, 2012.”

The reason for this amendment is pretty straightforward. Industry needs some time—

Mr. Frank Klees: It's when everything else comes into force.

Mr. Gilles Bisson: That's right. You stole the line. There's a great song: when they say, "You took the words right out of my mouth."

The Vice-Chair (Mr. Jeff Leal): Mr. Bisson, please proceed.

Mr. Gilles Bisson: No, I'm just saying—

The Vice-Chair (Mr. Jeff Leal): I know it's Thursday afternoon, but please proceed.

Mr. Gilles Bisson: There's a great song—I think it was Meat Loaf—that said, "You took the words right out of my mouth." Mr. Klees did exactly that.

Anyway, the reason for this is twofold: One, it gives industry the time to do the adjustment they need to do to get to this. I don't believe, quite frankly, that we have to do it according to the timetable that the province of Quebec put forward. I'm sure my brothers and sisters there are working very hard, but we don't need to follow them any more than we need to follow the United States. That was the argument that was put forward by my good friend Mr. Brown.

The other thing is, I just want to put this in keeping with everything else the government is doing. Most of the stuff they're going to do is not going to come into force until after the next election, and I want to be in keeping with government policy.

The Vice-Chair (Mr. Jeff Leal): We appreciate your unqualified support. Mr. Brown, please.

Mr. Michael A. Brown: I oppose the change of date to 2012, because I oppose an extra one million tonnes of greenhouse gases going into the atmosphere.

Mr. Gilles Bisson: I don't pretend for one second that there isn't a positive effect on the environment with this bill. I don't pretend that for one second. There is going to be a positive effect to a degree, but I believe that the figures that the parliamentary assistant used are over-exaggerated. Let me explain. As I said earlier, first of all, this is not part of a central greening strategy on the part of the government. The province of Ontario has said it's going to come forward with a comprehensive green strategy, but I've yet to see it, and this is not part of one of those strategies. To pretend that the government is moving forward on the reduction of greenhouse gas emissions by way of this legislation, I think, is a pretty big stretch.

The other part is that, as we said, this bill, when enacted, if passed, will make sure that speed limiters are put in trucks to hold the speed at no more than 105 kilometres an hour on our highways. I point to the following fact: If every truck on our highways was doing 115, and we knew that, and we decreased them by 10 kilometres an hour to 105, your argument would hold water. But you know as well as I do, parliamentary assistant—you drive Highway 17; I drive Highway 11. We're stuck behind those transports. Why? Because they are driving at 105 kilometres an hour and sometimes less. Why? Because the majority of the big fleets have speed limiters on their trucks, so we already know that we're getting the effect of reduced emissions into the atmosphere; and number two, the biggest speed limiter you can

buy is unfortunately the price of fuel that we have to pay for driving our trucks on the road.

Mr. Frank Klees: And potholes.

Mr. Gilles Bisson: Potholes are the other one. On some of our highways you've got to go slowly. That's a good point. But the point is that most trucks are now running at about 105 kilometres.

Mr. Michael A. Brown: That's not true.

Mr. Gilles Bisson: You'll get a chance to refute that once I'm finished. Cam Woolley, for example—whom we all know well, and who works for the OPP—was on the radio earlier this week and said, "The anecdotal evidence is that people are driving slower on our highways. Why? Because of the price of fuel." So I'm just saying: Yes, there's going to be a reduction in greenhouse gases as a result of this bill; I don't argue that for a second. But let's not pretend that this thing is going to hit the target numbers that the government is purporting it's going to, because, quite frankly, a large part of the trucking fleet is already there.

The Vice-Chair (Mr. Jeff Leal): Further discussion?

Mr. Gilles Bisson: I'm looking for a good response.

The Vice-Chair (Mr. Jeff Leal): Mr. Bisson, you want a recorded vote?

Mr. Gilles Bisson: I would like to have a recorded vote, yes.

Ayes

Bisson, Klees.

Nays

Aggelonitis, Brown, Levac, Zimmer.

The Vice-Chair (Mr. Jeff Leal): It is lost.

Shall section 2 carry?

Interjection.

The Vice-Chair (Mr. Jeff Leal): On a recorded vote.

Ayes

Aggelonitis, Brown, Levac, Zimmer.

Nays

Bisson, Klees.

The Vice-Chair (Mr. Jeff Leal): It's carried.

Mr. Bisson, section 3: You have an interesting amendment here.

Mr. Gilles Bisson: I just thought we should—let me read the amendment first and make the argument after, as per the standing orders.

I move that section 3 of the bill be struck out and the following substituted:

"Short title

"3. The short title of this Act is the Not Necessarily Safer Roads Act, 2008."

Seeing as I lost the previous amendment, I've got to keep it "2008."

The argument is that the government makes this out to be a huge safety initiative. Again, I want to say up front, lower speeds are better for safety on highways. I don't pretend for one second that that assertion is wrong. But I come back to the point: There are parts of this bill that, quite frankly, are probably not going to lead to safer roads. In fact, if we listen to a lot of the testimony that came before this committee—I've had a chance to go back and read it, and I'll also read the report from the professor from Manitoba—there are people who argue that it very well could lead to more unsafe conditions on our roads.

Just to qualify that a bit, one of the arguments put forward is that if all trucks have speed governors on them and are doing 100 to 105 kilometres and one truck tries to pass the other, it's going to be very difficult for those trucks to overtake each other, and you'll have what you call elephant racing, where you've got two trucks running parallel and everybody is trying to get around them, if they can. That's extremely dangerous on Highway 401, where there are only two lanes—Windsor area, Kingston area, and the other side of Oshawa. Where Mr. Brown and I come from, there ain't—good English—a lot of good passing lanes on many of our highways, so when you do get to a passing lane, you'll end up with multiple trucks trying to get by each other, with the motoring public behind being frustrated. Frustrated drivers lead to more accidents; we know that. When drivers become frustrated and cut corners, we know that's the leading cause of accidents.

I think that this bill has sections in it that are not going to lead to safer roads, and I don't think we should pretend any differently. That's why we propose changing the title from what it is now to the Not Necessarily Safer Roads Act, 2008.

The other point I would make as well—and it comes back to the environmental point, the last argument: We know that most trucks are already holding the speed limit. I don't think—

Interjection.

Mr. Gilles Bisson: I see the parliamentary assistant saying no, but he hasn't come in yet and proven me wrong by giving me some kind of stat that says otherwise. All I know is, if I looked at the highways five, six or 10 years ago, trucks on Highway 11 were probably running at about 120 kilometres an hour. I don't pretend that for a second. But as I run down Highway 11 now—and I don't mean "run" in the case of running, because I'd have a hard time these days with my cane—but as I drive up and down Highway 11 servicing the communities in my riding, trucks are not running at 120 kilometres an hour. How do I know? I set my speed limit at about 103, 107, as I go down the road. I've done that for economical reasons trying to save gas, because it's a 100-

kilometre speed limit, so you try to stay within that limit. I'm not being passed by trucks anymore; they're staying behind me. Very seldom do I get passed by a truck.

The anecdotal evidence is that people are already going slower. So my point is that this is the Not Necessarily Safer Roads Act, 2008.

The Vice-Chair (Mr. Jeff Leal): Thank you, Mr. Bisson. Mr. Klees, did you want to—

Mr. Frank Klees: No.

The Vice-Chair (Mr. Jeff Leal): Mr. Brown?

Mr. Michael A. Brown: I would just say that we disagree.

Mr. Gilles Bisson: That raises a whole other debate, and the debate is that I disagree with you too.

The Vice-Chair (Mr. Jeff Leal): Mr. Bisson, do you want a recorded vote on your—

Mr. Gilles Bisson: Of course I do.

Ayes

Bisson, Klees.

Nays

Aggelonitis, Brown, Levac, Zimmer.

The Vice-Chair (Mr. Jeff Leal): It is lost.

Shall section 3, the short title of the bill, carry?

Mr. Gilles Bisson: No.

The Vice-Chair (Mr. Jeff Leal): On a recorded vote?

Mr. Gilles Bisson: Sure.

Ayes

Aggelonitis, Brown, Levac, Zimmer.

Nays

Bisson, Klees.

The Vice-Chair (Mr. Jeff Leal): It carries.

Shall the title of the bill carry? Carried.

Shall Bill 41 carry? Carried.

Shall I report the bill to the House? Carried.

That concludes our deliberations this afternoon.

Mr. Gilles Bisson: Oh, no. I was having so much fun.

The Vice-Chair (Mr. Jeff Leal): I know you were.

Mr. Michael A. Brown: We all were.

The Vice-Chair (Mr. Jeff Leal): Thank you, members of the committee, for your co-operation during the hearings and the clause-by-clause deliberations today.

The committee adjourned at 1422.

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Also taking part / Autres participants et participantes

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Mr. Mike Dodds, senior enforcement policy adviser,
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Official Report of Debates (Hansard)

Monday 21 July 2008

Journal des débats (Hansard)

Lundi 21 juillet 2008

Standing Committee on Justice Policy

Provincial Animal
Welfare Act, 2008

Comité permanent de la justice

Loi ontarienne de 2008
sur le bien-être des animaux

Chair: Lorenzo Berardinetti
Clerk: Susan Sourial

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
JUSTICE POLICY

Monday 21 July 2008

COMITÉ PERMANENT
DE LA JUSTICE

Lundi 21 juillet 2008

The committee met at 1002 in committee room 1.

The Clerk Pro Tem (Mr. Trevor Day): Honourable members, it is my duty to call upon you to elect an Acting Chair. Nominations, please.

Mr. Dave Levac: Mr. Clerk, I would like to nominate Mr. David Zimmer to be our Acting Chair.

The Clerk Pro Tem (Mr. Trevor Day): Mr. Zimmer, do you accept the nomination?

Mr. David Zimmer: Yes.

The Clerk Pro Tem (Mr. Trevor Day): Any further nominations? There being no further nominations, I declare nominations closed and Mr. Zimmer as Acting Chair of the committee.

The Acting Chair (Mr. David Zimmer): Thank you very much.

SUBCOMMITTEE REPORTS

The Acting Chair (Mr. David Zimmer): The first order of business is the subcommittee report.

Mr. Dave Levac: A summary of the decisions made at the subcommittee on committee business:

Your subcommittee on committee business met on Tuesday, June 24, 2008, to consider the method of proceeding on Bill 50, An Act to amend the Ontario Society for the Prevention of Cruelty to Animals Act, and recommends the following:

(1) That the committee hold public hearings the week of July 21, 2008, as follows: two days in Toronto and one day in London, Ottawa and North Bay.

(2) That the order of locations visited is to be determined by the committee clerk, in consultation with the Chair, taking into account travel arrangements.

(3) That a minimum of eight presenters is required to warrant travel to London, Ottawa or North Bay, and that if travel is not warranted to a location, witnesses in that location be offered video- or teleconferencing.

(4) That the committee clerk, with the authority of the Chair, post information regarding the committee's business one day in the following area newspapers, in English and French: London, Ottawa and North Bay. The notice will also be posted on the Ontario parliamentary channel and the committee's website. The notice is to be posted as soon as possible.

(5) That interested people who wish to be considered to make an oral presentation on Bill 50 should contact the committee clerk by 12 noon, Tuesday, July 8, 2008.

(6) That on Tuesday, July 8, 2008, the committee clerk provide the subcommittee members with an electronic list of all requests to appear.

(7) That groups and individuals be offered 20 minutes in which to make a presentation.

(8) That if all groups can be scheduled, the committee clerk, in consultation with the Chair, be authorized to schedule all interested parties.

(9) That if all witnesses cannot be scheduled, the committee clerk, in consultation with the Chair, reduce the presentation times to 15 minutes.

(10) That if all witnesses cannot be scheduled with 15-minute presentations, the Chair shall call a meeting of the subcommittee to determine how to proceed.

(11) That the deadline for written submissions be 12 noon, Wednesday, August 6, 2008.

(12) That the deadline, for administrative purposes, for filing amendments be 3 p.m., Monday, August 11, 2008.

(13) That the committee begin clause-by-clause consideration on Monday, August 18, 2008.

(14) That the committee clerk, in consultation with the Chair, be authorized prior to the passage of the report of the subcommittee to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

That is your subcommittee report.

The Acting Chair (Mr. David Zimmer): Mr. Levac, I understand that as a result of paragraph number 10 in your report, there's a second—

Mr. Dave Levac: There is a second subcommittee report, Mr. Chairman, a summary of the decisions made at the subcommittee on committee business.

Your subcommittee on committee business met on Friday, July 11, 2008, to consider the method of proceeding on Bill 50, An Act to amend the Ontario Society for the Prevention of Cruelty to Animals Act, and recommends the following:

(1) That two days of public hearings be scheduled for London, Ontario, with all London witnesses being given 15 minutes to make their presentations.

(2) That the committee meet in Toronto on July 21, 2008, London on July 22 and July 23, 2008, Ottawa on July 24, 2008, and Toronto on July 25, 2008, subject to travel logistics.

The implication there is that North Bay did not submit enough presentations to warrant travel.

The Acting Chair (Mr. David Zimmer): Further debate? I propose to treat the two reports together.

Mr. Dave Levac: That's acceptable.

The Acting Chair (Mr. David Zimmer): Thank you. Shall the reports carry? Carried.

PROVINCIAL ANIMAL WELFARE ACT, 2008

LOI ONTARIENNE DE 2008 SUR LE BIEN-ÊTRE DES ANIMAUX

Consideration of Bill 50, An Act to amend the Ontario Society for the Prevention of Cruelty to Animals Act /
Projet de loi 50, Loi modifiant la Loi sur la Société de protection des animaux de l'Ontario.

CANADIAN COALITION FOR FARM ANIMALS

The Acting Chair (Mr. David Zimmer): We're ready for our first presentation, the Canadian Coalition for Farm Animals, Stephanie Brown.

You have 15 minutes for your presentation. Any time that you leave over will be open for questions from the committee members. I've got a stopwatch and I'll give you a couple of minutes' notice. Okay?

Ms. Stephanie Brown: Okay. Thank you.

Good morning, everyone. As the Chair said, my name is Stephanie Brown. I am with the Canadian Coalition for Farm Animals. Our coalition is dedicated to promoting the welfare of animals raised for food in Canada through public education, legislative change and consumer choice.

We appreciate the opportunity today to be able to speak about Bill 50, and we support the addition of specified penalties in Bill 50. As an organization focused on the well-being and treatment of farmed animals, though, we're concerned about section 11.2(6)(b), which exempts farm animals from sections 11.2(1) and (2); namely, that "no person shall cause an animal to be in distress" and "no owner or custodian of an animal shall permit the animal to be in distress."

The vast majority of animals in Ontario are those raised for food—more than 220 million in 2007. To exclude the largest animal constituency from the legislation undermines the act and is prejudicial to farm animals.

Section 22(1)(b) states that the Lieutenant Governor in Council may make regulations "prescribing activities that constitute activities carried on in accordance with reasonable and generally accepted practices of agricultural animal care, management or husbandry." We ask what the regulations will prescribe as reasonable and generally accepted practices of agricultural animal care, management and husbandry. Canada does not have legislation prescribing how animals should be treated on farms. Instead, governments have deferred much of their authority to voluntary codes of practice which are developed by

industry-dominated committees. Industry chooses the practices that are acceptable to itself, including intensive confinement practices which ignore the animals' behavioural and physiological needs. The codes legitimize intensive confinement practices and justify the status quo as good animal care when it is not.

1010

Regulations to protect animals on the farm need to be more than voluntary codes, since the codes lack legal status in Ontario and there is no offence for not complying with even the minimal standards. The beef, dairy and pig codes were written between 15 and 18 years ago, and although times and attitudes change, the codes remain static. The codes do not ensure the five freedoms adopted by the Farm Animal Welfare Council in the United Kingdom. These include freedom from thirst, hunger and malnutrition; freedom from discomfort; freedom from pain, injury and disease; freedom to express natural behaviour; and freedom from fear and distress. Animals in crates and cages are forced to eat, sleep, urinate and defecate in the same spot. The one piece of legislation in Ontario, the OSPCA act, whose sole purpose is to prevent and alleviate cruelty and suffering of animals, denies the very basic right to farmed animals.

In Ontario and Canada, industries that exploit farm animals recognize the need to change current practices. Governments in the United States and Europe are beginning to legislate change in the treatment of farmed animals. A recent prestigious agricultural report in the United States recommends substantial changes to common animal production practices.

Recent examples of corporate, voter and government initiatives to end confinement systems considered acceptable under the codes of practice include Toronto-based Maple Leaf Foods, Canada's largest hog producer, which has called for a phase-out of gestation crates in Canada. These crates confine sows in steel-barred cages so small that they are unable to turn around for their entire four-month pregnancy. Ontario-based KFC Canada has called for a phase-out of the most commonly used method to kill chickens because an alternative system, called controlled atmosphere killing, has proved more humane. The European Union has mandated the phase-out by 2012 of battery cages where laying hens cannot perch, nest or spread a wing, and an end to gestation crates by 2013. Both are common practices in Ontario. Several US states, namely Arizona and Florida, have banned gestation crates—and, in the case of Arizona, veal crates—through voter initiatives. Oregon's state Legislature approved a measure banning gestation crates. A California ballot initiative titled the Prevention of Farm Animal Cruelty Act, proposition 2, to phase out cages and crates will be on the November ballot.

The Pew Commission on Industrial Farm Animal Production is a distinguished panel of 15 US experts on animal agriculture headed by a former governor of Kansas. That panel was established by the Pew Charitable Trusts and Johns Hopkins Bloomberg School of Public Health. The panel's report, published in April of this year, calls

for a 10-year phase-out of many current animal practices, including gestation and farrowing crates for sows, battery cages for laying hens, and crates for veal calves.

The issue of reasonable and generally accepted standards is not static, as the codes are. There's growing recognition of the need for more humane treatment of animals raised for food, away from intensive confinement and from the use of antibiotics and growth hormones, and recognition that farm animals should be protected from pain and suffering.

Farm animals in Ontario need and deserve the protection of Bill 50. As other jurisdictions vote to end cruel confinement practices for farmed animals, Bill 50 proposes an exemption of these animals. Excluding farm animals from Bill 50 forfeits the opportunity to protect the largest category of animals in the province, more than 220 million in 2007. The recommendation of the Canadian Coalition for Farm Animals is that farm animals not be exempted from Bill 50.

Thank you very much.

The Acting Chair (Mr. David Zimmer): Thank you. We have about seven minutes left, so I'll split that time, starting with Mr. Dunlop: two minutes.

Mr. Garfield Dunlop: I don't know if you're aware of this—and I appreciate your organization coming up here this morning—but when the government introduced this bill, we, on this side of the House at least, were under the impression that the bill was a bill to regulate roadside zoos. That's what we understood. All the press conferences that surrounded it, the media advisories, all the media that the government brought forward on the bill at the time was that it was a bill to regulate roadside zoos only. So I think that because of the information that's already out there, there are already a lot of people who are very suspect of what this bill will and will not do. That's why, of course, we wanted fairly long hearings and to listen to a multitude of people. You being the first presenter here, it's interesting that you'd come right out and ask for something in a recommendation as—you're right into farm animals immediately with this legislation, and we originally thought it was only a roadside zoo bill.

I appreciate what you're saying by asking for a major recommendation like this, but you can understand that, from our side of the House, we thought it was a roadside zoo bill only. The word "zoo" is not even included in the bill. I'd like you to comment on that, if you could.

Ms. Stephanie Brown: When you read the act, when there is a specific exemption for farm animals, that does send up red flags. You're specifically saying that farm animals don't count, and we're saying that they do count. There is a recognition around the world that is beginning, and I think that it's going to grow more and more. The initial steps are some of those that I reported, but it's an initiative where people are recognizing that the way we treat farm animals is totally unacceptable. To keep an animal for months, where she can't turn around while she's pregnant—one can't justify that, and yet our codes of practice, which are farm animal standards, do.

The Acting Chair (Mr. David Zimmer): Thank you. I'm going to move on to Mr. Kormos—two minutes.

Mr. Peter Kormos: Thank you, Chair, and thank you kindly, ma'am. An interesting observation. I suppose that if one looks at generally accepted practices of agricultural animal care, the conditions—I would suspect that I'm more familiar with egg-laying chickens and the way these chickens are maintained so as to optimize egg production—would be currently an acceptable practice or an accepted practice of animal care, and that's the point you're making.

Ms. Stephanie Brown: It is currently accepted in Ontario and in Canada, according to the codes of practice, which are not legislated, but the point is that governments, voters and consumers are saying, "This isn't good enough. We want to have better standards." When you're addressing animal protection and animal cruelty legislation, it seems negligent to not bring the issue out.

Mr. Peter Kormos: You understand that I come from down in the Niagara region. I've got a whole lot of sympathy for farmers, including chicken producers and egg producers who are battling difficult market conditions. I suppose that the interesting observation would be from the OFA—why aren't consumers voting with their dollar? Consumers are increasingly aware of this stuff. Public affairs television programs, books; I just read the poultry—whatever it was, a British book about the poultry industry in Britain. Why aren't consumers voting with their consumer dollars? They've got choices. There are products being marketed as being exceptional as compared to the norm.

Ms. Stephanie Brown: And indeed they are. I've been in touch with Loblaw's, and they have introduced a new line of cage-free eggs. It's a growing issue for them. It's a growing market for them, so as people become aware, they are voting with their pocketbooks, very definitely. And there are ways to raise hens without keeping them in cages.

The Acting Chair (Mr. David Zimmer): Thank you. Mr. Levac?

Mr. Dave Levac: Thank you. First of all, thank you, Stephanie, for coming and making your group's feelings known. I appreciate the input and the information. That's valuable for us to hear in the hearings.

Second of all, you might be surprised to hear that I disagree with the characterization of the member opposite that the bill was strictly written as a roadside zoo bill. It's a bill that's trying to capture something that's 90 years old and bring it into modernization. The bill will affect farm animals if those codes are breached. Are you aware of that?

1020

Ms. Stephanie Brown: Say that again, please?

Mr. Dave Levac: This bill, if passed, accepted and written as is, even with some amendments, does have the authority to move to take care of animals no matter where they are if the codes are breached.

Ms. Stephanie Brown: But the breach wouldn't be an issue if animals continued to be kept in confinement conditions.

Mr. Dave Levac: So you're wanting even further protection than what's being proposed in the bill?

Ms. Stephanie Brown: We are.

The Acting Chair (Mr. David Zimmer): Thank you very much for your presentation.

BILL McINTYRE

The Acting Chair (Mr. David Zimmer): Our next presenter is Mr. Bill McIntyre.

You'll have 15 minutes. If you want to leave some time at the end for questions, that's fine; we'll go around the table. I'll give you three minutes' notice before the 15 minutes are up. Please introduce yourself for the record.

Mr Bill McIntyre: My name is Bill McIntyre. I wanted to speak about Bill 50 because of my personal experiences with the OSPCA and specifically the Toronto Humane Society.

I support everything in the bill; I think it's great. My understanding is that for years the law has treated pets simply as property, and I think of this bill as a step forward in starting to think of dogs and cats, people's pets, more as family members and as being more valuable than they may have been considered in the past.

Here's a brief bit about myself. Ten years ago, I started breeding small dogs. I've got two female Pomeranians. I've bred a small number of dogs for 10 years.

I had an extremely unpleasant experience with the Toronto Humane Society last summer, and it caused me to take a look at this bill and see an urgent need for the OSPCA to be able to discipline and control its affiliates and members. I was very shocked by the extremely dishonest behaviour of several of the Toronto Humane Society investigators, who blatantly lied to me about several things. I was really offended by the unfairness of it.

Specifically, Tre Smith and Brandy Hill came to my home and told me that they wanted to take my puppies to their vet to be examined. I said, "I'm happy to take them to my vet." They said, "Don't worry about it. Our vet will only charge you 10% of what your vet would charge; it'll only cost you \$50." I said, "Fifty dollars total?" Tre Smith said, "Oh yeah, it's only going to cost you \$50 to have all your puppies examined." I had 10 puppies at the time. I said, "Okay, that's great. When will I get them back?" Brandy Hill and Tre Smith assured me three times that I'd have the puppies back later that day. Those assurances and the fact that they made considerable threats that if I didn't give in to them and let them take my puppies—they'd arrest me for running a puppy mill; I'd never be able to own dogs again; they would seize my adult dogs and I'd never get them back.

Later on that night, I started calling the Toronto Humane Society. I started to feel ill when I suddenly realized I'd been conned. No response the next day: I called and called and called, and nobody even called me back. These being valued pets of mine, I began to feel so physically ill for the next four days that I ate nothing except one hot dog. That's how physically ill I was. Finally, on the third day, I reached Tre Smith on the phone. He said,

"Okay, you can come pick up your dogs. It'll cost you \$1,450." I said he had told me it would cost me \$50. He said, "No, we didn't say that." So I appealed this to the Animal Care Review Board. Of course, they kept my dogs the whole time, charging me \$15 per day per dog. I said, "Well, this isn't fair. Nobody told me they'd be charging me this money for a storage fee for the dogs." They said, "Oh, we explained it." I said, "You didn't explain it because you never told me you'd have the dogs for more than just the day."

I feel really strongly that behaviour like that—and my opinion is, it goes on more at the Toronto Humane Society. I don't know if many of you know much of the history of the Toronto Humane Society as opposed to the other OSPCA branches and affiliates. I really feel that—I believe it's section 6 of this bill. I know the THS wants you to strike down that section and I'm telling you, gosh, we need all the oversight possible. The OSPCA needs to be able to control the behaviour of its branches and affiliates and rein them in when they're doing things that are really unacceptable.

My question to you as well is, in a case like me, where somebody feels that the OSPCA or its branches or its employees, its investigators, have really overstepped the bounds, whom do I complain to? Who is in oversight? I tried calling the chief investigator at the OSPCA and really didn't get any satisfaction at all. As I understand it right now, there isn't an Ombudsman or somebody in government who has a little bit of distance from the OSPCA whom a person like me or somebody who feels they've been wronged by the OSPCA can go to and say, "What's going on here? This isn't quite fair."

The experience was so unpleasant for me that in the last week I didn't even really want to sit down and jot out my thoughts, so I avoided it until 7 o'clock this morning. There are probably about 20 points that I could list for you. I think you would really be shocked at the behaviour of the THS. Many of you may not know all of the things that have been going on there—its politics, its radical behaviour. Some of you may know that the city distanced itself from the THS years ago and stopped sending puppies there and stopped sending money.

I won't waste your time with all the minor points, but I could list a bunch of complaints that I think really would have you rather shocked at the dishonest behaviour and basically the extortion that went on. The investigators blatantly lied to me, threatened me, coerced me into letting them have my puppies. God strike me dead, they said, "It'll only cost you \$50 total to get your puppies back after our vets look at them." Then they hit me with a bill of \$1,450, and then when I said, "Well, that's not right," they said, "Oh, well, you can't have your puppies back." So I appealed it to the Animal Care Review Board. The whole time, they're charging me \$15 per day per puppy while I wait for this to go to the Animal Care Review Board, which said, "Of course you can have your puppies back. There's no question about that," and there was no question in the THS's mind. All I had to do was pay all this money they wanted. So by the end of the time

that it had gone to the Animal Care Review Board, they wanted me to pay \$4,255 to get these puppies back. The Animal Care Review Board, in their wisdom, said that the THS has to pay part of that storage fee.

Section 6, I think it is, in Bill 52 allows the OSPCA to discipline its satellite agencies, to kick out an agency or prevent them from using the humane society name if they're engaged in this sort of behaviour. I feel it's really necessary. In addition to that, I feel it would be really helpful if somebody like me could go to an Ombudsman, write up our complaints and say, "Could you kind of look at the behaviour?" in the same way that all organizations—the police, doctors, lawyers—have a governing body to discipline their members. I hope you'll consider that the OSPCA needs this ability itself.

1030

The Acting Chair (Mr. David Zimmer): Thank you. We've got six minutes left so we'll start with Mr. Kormos—two minutes.

Mr. Peter Kormos: I hear you. I'm not sure that's what section 6 does. It doesn't give the OSPCA supervisory authority over the humane society. But I agree with you, if you've got a grievance with the humane society—I suppose you should consider yourself lucky that you were dealing with them rather than Julian Fantino. But at the end of the day, they're holding your dogs like a warehouseman's lien type of condition. I don't know what the authority for that is, quite frankly. I don't know if Mr. Zimmer is familiar with that area of law. I suppose it's similar to a warehouseman's lien or a mechanic's lien.

Why didn't you pay the money under protest and sue them in Small Claims Court? If you say they had made commitments to you about how much it was going to cost etc., it seems to me that's the very sort of thing—you pay the money to get the puppies out, you avoid these storage fees, these impound fees, and then you sue them in Small Claims Court. There's your adjudicator. I don't know; it's just a suggestion. I'm a simple person from small-town Ontario.

Mr. Bill McIntyre: If I'd known that it was going to drag on and they were going to hold my puppies for 29 days until it had gone to the Animal Care Review Board, it would have been a small price to pay.

Mr. Peter Kormos: What was the process they did? What did they do for the puppies? You took them there to have something done to the puppies.

Mr. Bill McIntyre: Tre Smith said, "Oh, somebody complained about your puppies. They look like they're scratching at their ears. We want to have our vets examine them"—

Mr. Peter Kormos: So a medical checkup.

Mr. Bill McIntyre:—"to make sure that they're healthy." Then when it came to the Animal Care Review Board, their vet—

Mr. Peter Kormos: But what would your vet have charged? Did you ever find out?

Mr. Bill McIntyre: It probably would have cost me \$500 or \$600, in that area. My feeling is that if you let an

organization go on its own without supervision for long enough, it kind of—

Mr. Peter Kormos: Now, Tre Smith—I've heard that name before, haven't I?

Mr. Bill McIntyre: Yes.

Mr. Peter Kormos: It seems like one of the lesser of his notorious conducts.

Mr. Bill McIntyre: Yes, very much so.

Mr. Peter Kormos: Maybe you got off easy.

Mr. Bill McIntyre: Yes.

Mr. Peter Kormos: He didn't handcuff you to a car.

Mr. Bill McIntyre: In that incident, just a little bit more violence from the people around—that guy could have been killed, the guy that was handcuffed to the car. It was fairly close, and—

The Acting Chair (Mr. David Zimmer): Thank you, Mr. McIntyre. We'll move to Mr. Levac.

Mr. Dave Levac: Mr. McIntyre, thank you for your presentation. Your concerns and issues are heard, and that's precisely what we're trying to do here—trying to find the balance. We're committing to do that, so thank you very much for the opportunity.

The Acting Chair (Mr. David Zimmer): Mr. Dunlop?

Mr. Garfield Dunlop: Thank you very much for your presentation this morning. I think the concerns you raise about the Toronto Humane Society are some of the same concerns I'm hearing about the OSPCA, about the oversight and the complaints. As we go through these hearings, we hope to hear further comments and in the end make recommendations that would, in fact, correct the legislation to make it better. I don't think there's anybody on this committee or anybody in the province who wants to see any kind of distressed animals, but we want to make sure that we get this bill right. Maybe in the end we need a Julian Fantino to oversee something like this—somebody who I respect a great deal. My colleague apparently—

Interjection.

Mr. Garfield Dunlop: Anyhow, thank you for your comments, and we'll look forward to the recommendations.

The Acting Chair (Mr. David Zimmer): Thank you very much, Mr. McIntyre.

WORLD SOCIETY FOR THE PROTECTION OF ANIMALS

The Acting Chair (Mr. David Zimmer): Our 10:45 presenter has not confirmed and is not here, so we've arranged to move up the 4:30 slot, the World Society for the Protection of Animals, Melissa Tkachyk.

Just before we begin, if we run out of chairs here, there's an overflow room next door. It's air-conditioned and there's a TV you can watch. It's your choice.

Please introduce yourself for the record. You've got 15 minutes. If you want to leave some time at the end for questions, that's fine. I'll give you three minutes' notice before your time is up.

Ms. Melissa Tkachyk: My name is Melissa Tkachyk. I'm the programs officer for the World Society for the Protection of Animals in Canada.

For those of you who don't know our organization, we are the largest international alliance of animal welfare organizations. We work in partnership with more than 900 member societies in 153 countries, and we work to improve animal welfare standards around the world through fieldwork and advocacy.

We appreciate this opportunity to speak about an issue that is of utmost importance to the WSPA, to our more than 30,000 supporters across Canada and, in particular, to Ontario residents.

We support Bill 50 because it's a significant improvement to the existing Ontario SPCA act in several key areas, and I'll name a few of those.

It creates a new provincial offence for causing or permitting distress to any animal. It raises the bar for establishing the strongest penalties in the country for those charged with animal cruelty, including the potential to ban the offender from owning an animal ever again. In granting the Ontario SPCA new powers to inspect zoos and other facilities, it should improve their ability to monitor the treatment of animals in these areas. And it would establish animal care standards that would apply to all animals and make failure to comply with these an offence. These are very significant protection measures, and we applaud the government for introducing them.

We do have some concerns, however, with sections of this bill and recommendations for strengthening it.

Firstly, we recommend removing subsection 6(b) of the bill, which amends section 10 of the existing Ontario SPCA act. This is a section, which I'm sure you'll hear more about, which prohibits groups not affiliated with the SPCA from using the names "humane society," "society for the prevention of cruelty to animals," "SPCA" and equivalent in other languages. We are concerned about the negative impacts that this proposed amendment may have on other animal welfare organizations which have these words within their name and yet are not affiliated with the SPCA. These charities do very important work to improve protection for animals, and it would be most unfortunate if an act to improve the protection of animals were to disenfranchise or otherwise hinder the work of these other important organizations. Our lawyers have also advised us that the WSPA could also be negatively impacted by the proposed subsection 10(b) because there are noticeable similarities particularly between our corporate name registered in French and those prohibited in this section. We do support amending section 10 of the existing act, which we feel is more problematic. It seems to bar all animal welfare organizations that have as their mandate animal protection. We do feel that subsection (a) of this proposed amendment should be adequate to resolve the problem at hand, which I believe is to deter individuals and organizations from falsely portraying themselves as having authority under this act. So we would recommend that subsection (b) of this proposed amendment be removed from the bill but subsection (a) be retained.

Secondly, we want to ensure that all animals are protected from unnecessary cruelty and unlawful and unacceptable activities. The second paragraph of the explanatory note accompanying this act states that "offences of causing or permitting distress to an animal do not apply in respect of native wildlife and fish in the wild." This makes it seem that fish and wildlife in the wild are afforded no protection at all, but in contradiction, clause 11.2(6)(a) indicates that there will be prescribed circumstances and conditions defined in the regulation. I'm presuming this means activities such as hunting, trapping and fishing, which are already regulated under the Fish and Wildlife Conservation Act. While explanatory notes have no legal force or effect, we understand that they may be used from time to time by the courts in interpreting the Legislature's intention, so as such, we would recommend revising the explanatory note to clarify that all animals, including native wildlife and fish in the wild, are indeed protected under this act.

1040

We are also concerned that this bill allows for some broad exemptions to be established in the regulations, and I'm referring to clauses 11.2(6)(c) and 22(1)(c) and (d). If this bill is intended to bring Ontario's animal protection law from worst to first, we hope that it will be made stronger rather than watered down with numerous exemptions. If there are industries or groups that the government intends to grant further exemptions to, we ask the government to make clear its intention. If there are none, we respectfully urge you to remove these provisions for broad exemptions.

The WSPA is supporting this bill because it is our understanding and expectation that the legislation will protect all animals, farm animals and wildlife included. We understand and have no opposition to exemptions for lawful activities provided they're carried out in accordance with applicable legislation and regulations and/or codes of conduct, and that the law still allows for the prosecution of individuals who exceed the bounds of reasonable and commonly accepted behaviour.

Third, and perhaps most important to our organization, and the reason we're involved in this process, is that we recommend the establishment of comprehensive zoo regulations and standards under this bill.

For over a decade, the WSPA and Zoocheck Canada have been investigating the deplorable conditions that many animals are kept in at roadside zoos across Ontario. For the same number of years, we've been advocating for zoo regulations and standards to address the very serious animal welfare problems and public health and safety concerns that we have observed at these substandard zoo facilities. We were therefore very delighted when the Acting Chair of this committee, Mr. David Zimmer, introduced a bill back in October 2006, Bill 154, An Act to regulate zoos. Let me remind this committee that that bill received significant, widespread public support from people across this province as well as support from the WSPA, Zoocheck Canada, the Ontario SPCA, the Canadian Association of Zoos and Aquariums and support from

MPPs from all three parties in the Legislature. The Ministers of Community Safety and Correctional Services, both past and present, acknowledge Mr. Zimmer's great work through Bill 154 as being a significant impetus for the development of Bill 50. So, understandably, expectations are high that this bill will address the roadside zoo problem in Ontario.

Bill 50 will go some way toward addressing these problems. It will allow the Ontario SPCA for the first time to inspect zoos—they won't need the zoo owner's permission anymore—it will establish general standards of care that would apply to zoos, and it would make failure to comply with these an offence. But what this does is that it gives the SPCA officers the necessary tools to react to the suffering of individual animals in the most egregious cases.

What it does not do, unlike Mr. Zimmer's bill, is proactively promote better treatment of animals in the same way that a licensing regime, tied to specific standards and regulations, would serve to do. It would not require zoos to improve their exhibits and standards of care, and it doesn't prevent the proliferation of new roadside zoos. In order to address this deficiency, it is of paramount importance that, along with general standards of care for all animals, the regulation lay out further requirements that will apply to facilities that keep wildlife in captivity.

We were pleased to receive from the Minister of Community Safety and Correctional Services, the Honourable Rick Bartolucci, a letter reiterating the government's commitment to establish standards of care for zoo animals in the regulations accompanying this act. We appreciate this commitment very much, but we just want to make sure that these standards are comprehensive enough to deal with the welfare requirements of wildlife.

To address Ontario's roadside zoo problem, we recommend that the regulations under this bill do the following: that they reference specific standards for zoos; that they require a person or business to obtain a licence in order to keep wild animals in captivity; that they stipulate specific requirements of the licence applicants; and that they stipulate public health and safety requirements to protect zoo staff, visitors and surrounding communities.

With respect to referencing standards in zoos, we understand that the general standards of care will be established by regulation under the new act and would apply to all animals. If you look at the standards of care in the existing act, which just apply to kitty and puppy mills, they're very basic. If these same standards were the only requirements for zoos, I fear we wouldn't see many improvements at roadside zoos.

The case of Tyson, the red kangaroo, is a good example. For those of you who don't know, Tyson was a red kangaroo found at a roadside zoo in London, Ontario. He was kept in a small, barren cage the size of a single-car garage, with nothing for stimulation. Although red kangaroos are social animals that live in large groups called "mobs" and like to graze on grass, Tyson was kept alone on a minuscule, bare piece of compacted dirt for at

least the five years that we had been observing him at the zoo.

Tyson's story became headline news in Australia, provoking the Australian Minister of the Environment to call for an investigation into his situation. That all happened last year. Countless letters were sent from all around the world demanding that the government make changes on behalf of this one sad, captive animal.

If the existing standards of care in the current act applied to Tyson, the SPCA would likely be able to ensure that he received adequate food, water, shelter and space to exercise, but I don't think it would require that he have companionship, features and furnishings to encourage natural behaviour, or sufficient space to hop like a normal kangaroo. In the wild, his species could easily cover three metres in just one hop, but in the cage he was kept in, he wasn't even able to do that.

The point I'm trying to make is that the needs of wild animals such as kangaroos, tigers, lions and monkeys are very complex and very different from those of cats and dogs and they're very challenging to satisfy in captivity. For that reason, we recommend referencing specific wildlife-in-captivity standards in the regulations under this bill. This would provide more direction, clarification and enforceable provisions, and it would satisfy the expectation that the new law will put an end to the mistreatment of animals at roadside zoos. The good news is that there are many models to choose from, as most Canadian jurisdictions have zoo regulations and standards already in place. We have provided the Ministry of Community Safety and Correctional Services with examples of zoo standards that we support referencing in the regulations.

The other issue is that you still don't need a licence in the province to acquire a tiger, a monkey or another exotic wild animal and keep it in your backyard. You can pretty much keep that animal in any condition you see fit, and there's no law against that. That's simply unacceptable and something that this government needs to address sooner or later. Licences are a critical enforcement tool. The Ministry of Natural Resources currently issues licences for keeping native wildlife in captivity, but they represent about a third of the animals kept in Ontario zoos. The vast majority are these exotic species. Licensing exotics is very important to address this regulatory gap. It's also important to prevent the proliferation of new roadside zoos. It's important for record keeping. I'm sure our emergency services and fire departments would like to know where these potentially dangerous animals are being housed. It gives the public some assurance that the facility they are visiting is legitimate and that it has been inspected by somebody.

With a licence, the government has the ability to establish specific requirements of the applicants as well. In many other jurisdictions, applicants are required to submit a business plan to ensure they have the financial resources to look after these animals well into the future. They are required to submit proof of training and experience with the animals they want to keep. They are

required to submit liability insurance and an emergency plan in case of an escape, an accident or a zoo's unforeseen closure. So it puts the onus back on the zoo owner to deal with that problem. It would give the government the ability to deny an application for a new zoo licence if the proposal was not likely to meet the standards.

The Acting Chair (Mr. David Zimmer): Three minutes.

Ms. Melissa Tkachyk: Thank you.

Lastly on this issue, there need to be regulations and standards to ensure that these wild animals are securely confined and measures are in place to protect human health and safety—not only the zoo staff, but the visitors and the community at large. There have been a number of animal escapes in Ontario and incidents where people have been attacked. Some even led to people being killed. I encourage the government to act before another tragedy occurs here. It's only a matter of time.

My last comment with regard to Bill 50 is about our recommendations for general standards of care for all animals. We think these can be strengthened by adopting the five freedoms for animal welfare that were first established in the UK in 1965 to address farm animal welfare issues. The five freedoms are an effective framework for assessing animal welfare in a wide variety of situations, including zoos, and they've been used in the development of animal welfare legislation and standards around the world. We recommend that this be used as a regulatory framework contained within section 11.1. This will clarify and modernize the province's approach to animal welfare.

Thank you for your time and consideration. If there is still time, I'd be pleased to answer your questions.

The Acting Chair (Mr. David Zimmer): A minute each, starting with Mr. Dunlop.

Mr. Garfield Dunlop: I know you've done a lot of work on this particular bill. I'm happy to see on your first page that you recommend that clause 6(b) be removed. I think we agree with that on this side of the House. It would be interesting to hear the reasons why the government continues to leave that in there.

I know we don't have a lot of time here. I know the work you put into this. You were one of the main reasons that Mr. Zimmer put the original private member's bill through. I have to say, again: That's the part I find disappointing. When the bill did come forward, it was hailed, and all the media attention was around the bill was around regulation of roadside zoos. I'm going to continue to say this through these hearings: The word "zoo" is not mentioned in the bill—nowhere. It's a much more comprehensive bill, and as we go through this, we're going to hear from a lot of stakeholders who have got a lot of concerns with this bill who weren't properly consulted at the beginning.

1050

The Acting Chair (Mr. David Zimmer): Thank you, Mr. Dunlop. Ms. DiNovo.

Ms. Cheri DiNovo: Thank you, Melissa. I've just breezed through this, but I've read it before. Thank you

for all your effort and work. I absolutely agree with everything you have to say.

I too, like Mr. Dunlop, found it very unconscionable of the government that zoos are not included in this, and also that section 6 is. So one is very concerned about this bill the way it's currently worded and worked. Rest assured that certainly, from the New Democratic Party point of view, we're going to do everything we can to see that zoo animals are protected by this bill and also that section 6 is removed.

The Acting Chair (Mr. David Zimmer): Mr. Levac.

Mr. Dave Levac: Thank you, Mr. Chair. I'd like to hear perfection on the other side, because every bill that's come before us in this Legislature has always found ways to listen to the communities, and listen clearly. We've listened very clearly. We've heard from Ontarians across the province. Once perfection is met, I'd like to meet the person who knows how to write that.

We want to assure you that we have intention for the tools to protect animals across the province, but that the organizations that use the name "humane society" or "SPCA" are well protected as well. We want to make certain that those using the name "humane society" or "SPCA" continue to do their very important work throughout the province. There will be an amendment offered.

The Acting Chair (Mr. David Zimmer): Thank you very much for your presentation.

Ms. Melissa Tkachyk: Thank you.

HUMANE SOCIETY OF CANADA

The Acting Chair (Mr. David Zimmer): Tony Kenny? Tony Kenny? The Humane Society of Canada—are they here?

Interjection.

The Acting Chair (Mr. David Zimmer): If you don't mind starting; your slot was at 11:15—

Mr. Michael O'Sullivan: No, not at all.

The Acting Chair (Mr. David Zimmer): —but if you could start now. Thank you very much for your co-operation.

If you'll introduce yourself for the record, you'll have 15 minutes, and I'll give you three minutes' notice. If you want to leave time for questions at the end, that's your opportunity.

Mr. Michael O'Sullivan: Certainly. I had a question as well. Robert Burr, who's scheduled to speak at 2 o'clock for the Burr Foundation—

The Acting Chair (Mr. David Zimmer): Yes, I've been made aware of that. I'll deal with that at the end of the morning.

Mr. Michael O'Sullivan: Thank you.

My name is Michael O'Sullivan, and I'm the chairman and CEO of the Humane Society of Canada. Thank you for giving me this opportunity to speak with you on behalf of our organization.

To fill you in a little bit on our work, we have concern for companion animals, farm animals and horses,

laboratory animals, wildlife and environmental issues. We carry out our programs by providing financial and logistical support to a network of humane organizations as well as wildlife centres and shelters. We also appear before committees like this for stronger laws, we carry out undercover investigations, and we also promote respect for animals by speaking to children and helping them with school projects.

A little bit of my own background: I became involved in working with humane societies as a volunteer when I was 11 years old; I turned 54 yesterday. Obviously, I started out with a lot more hair on my head and a less grey beard. In any event, I headed up the Toronto Humane Society, I headed up the Windsor/Essex County Humane Society, I founded the Canadian office of the World Society for the Protection of Animals and was its regional director for 10 years, and for the last 16 years I've headed up the Humane Society of Canada. I've been an inspector, worked with police at all levels, including the RCMP and Interpol, looking at issues and helping them in court, preparing cases and giving evidence, and have been classified as an expert witness in court.

We have great concern over this bill, because it would be easier for me to enumerate to you all the animals that won't be protected rather than the ones that will be protected.

The mechanisms: I've watched and worked with the OSPCA over the last 40 years. Individually, I think there are some wonderful people working there and they do tremendous work under very difficult circumstances. I think that over the years the government has let them down badly in terms of the resources that they've made available for them to do the job, and the result is that I believe the OSPCA should still continue to enforce the law, but not under the structure that currently exists.

With respect to the powers that they're asking for, in many cases they already have those powers. In the case of veterinarians, under the Veterinarians Act, professional misconduct is specifically set aside if a veterinarian reports a case of animal abuse. So that authority already exists. In fact, over the years, veterinarians have traditionally resisted being controlled by humane societies. So even if you were to amend the act to let them do it, they're already required to do it now and they'll have to amend their own act in any event.

I'm a bit concerned that under the act veterinarians' offices and facilities for the very first time will be exempted from inspections by OSPCA inspectors, and I don't understand the rationale. Right now, under the current act, the only facility OSPCA inspectors cannot go into is a registered research facility where there are laboratory experiments being conducted. We don't agree with that either. Neither humane societies, researchers or farmers should be allowed to have voluntary self-supervision. In a perfect world, everything would be voluntary. That's not the world we live in.

My father was a farmer, I've worked on farms, I hold a bachelor of science in agriculture from the University of Guelph and I understand farmers very well. You're

going to hear from them that OSPCA inspectors are not qualified to look at farm animals. Let me tell you something. Talk to any farmer and he thinks the farmer down the road is not qualified to tell him how to care for his farm animals. And that's okay, but it's like telling a police officer, "You can't investigate allegations of a certain offence because we don't think you have the proper training to do it." It just doesn't make any sense. There needs to be a greater supervisory role.

Under the current act, it says that the OSPCA approves inspectors, but the appointment is left up to the Attorney General, as it should be with police powers. Under the new act, it will be the society that appoints inspectors. It's my respectful submission that you can't have a charity with police powers that appoints itself and supervises itself. Right now, if there is concern about whether or not an investigation goes forward, starts at all or cruelty charges result, the buck stops with the chief inspector as to whether or not it goes forward. That's not the way civilian concerns are expressed to other police forces. There's a police commission, you make a report to the police commission, and there's an investigation about whether or not the charges should have gone forward.

You need greater co-operation with crown attorneys. I've sat in court and listened to people—say, *Regina v. Whoever*—charged with cruelty to animals. You could hear a pin drop in the courtroom. The judges look at the clerks, the clerks look at the police. Nobody knows what to do. You need specially trained crown attorneys, you need judges who understand that cruelty to animals leads to violence towards people. No less than the FBI regards cruelty to animals as one of the three primary indicators of future criminal potential. This is very serious. So animals deserve protection in their own right, as well as for the sake of society.

The current provisions as they exist now actually undermine the Criminal Code because they provide exemptions for animals used in research, they provide exemptions for performing animals, animals in zoos and circuses, the racing industry, farm animals. You can't have those exemptions when the Criminal Code is silent on those types of animals. In fact, farm animals under the Criminal Code since 1892 always carried a heavier penalty if you were convicted of cruelty to animals. Traditionally, it was an indictable offence with five years. As you know, many of you supported the amendments to the Criminal Code at the federal level where they've increased the penalties. You've acknowledged that if there are stronger laws to protect animals, they should take precedence by section 21, which says that if you have municipal bylaws that provide stronger protection, then those bylaws have to take precedence. In a similar fashion, you have to do the same at the federal level. The Criminal Code overshadows anything you want to do here and you can't provide less protection under the law than already exists under the federal Criminal Code.

With respect to the use of the name SPCA or humane society, it's my respectful submission you don't have the

authority to do it. The federal trademark through Industry Canada, the charitable status that you get from the federal government, all trump what you want to do here at a provincial level. You can't say to the directors of a humane society, who have moral, legal and fiduciary obligations that they applied for and were granted permission to use, that all of a sudden they're now subordinate to an outside agency which has all of the authority and absolutely none of the responsibility or the obligations or the liability of running a charity. You simply can't do it. The current structure of the Ontario Humane Society is based on its affiliate members. Four of the seven directors can't even sit on their own board of directors, and yet they sit on the board of the OSPCA. We believe the reason this section was included is because they regard organizations like ours and others as competition for fundraising. That's the reason this section is in there. You'll hear from them that the reason they did it was because these organizations can't carry out investigations unless they're OSPCA inspectors—absolutely untrue. The previous speaker from the World Society for the Protection of Animals carried out investigations which created a bill to protect zoo animals; they're not a law enforcement agency. We carry out investigations; we're not a law enforcement agency. It's like saying to a reporter, "You can't investigate an allegation of a crime because you're not a police officer."

1100

With all due respect, I think the intention of the bill is a good one. I think the mechanism leaves a lot to be desired. We're prepared to help you with that, but I would seriously urge the committee that there be more widespread public consultation before this gets third reading. I would hope that you would recommend that before the Legislature reconvenes on September 22.

I'd be pleased to answer any questions you might have.

The Acting Chair (Mr. David Zimmer): We've got a little more than two minutes per party. We'll start with Mr. Dunlop.

Mr. Garfield Dunlop: Thank you very much. Do you actually have a written submission here this—

Mr. Mike Colle: You've got the wrong rotation.

The Acting Chair (Mr. David Zimmer): Sorry?

Mr. Dave Levac: You did the wrong rotation. You did him last time.

The Acting Chair (Mr. David Zimmer): Oh, I'm sorry.

Mr. Garfield Dunlop: That's all right.

The Acting Chair (Mr. David Zimmer): My mistake. Ms. DiNovo.

Ms. Cheri DiNovo: Thanks, Mr. Chair.

Thank you so much for that. I thought that was succinct and to the point and addressed exactly what some of our major concerns are with this very poorly written piece of legislation. We hope that it's tightened up. We hope that sections are removed that shouldn't be there. We hope that some of the original intent of Mr. Zimmer's bill is brought back to life.

Thank you very much for all the work that you do. I also really appreciated the insight about federal laws and regulations and the fact that at a very rudimentary legal level, whoever drafted this bill didn't take that into consideration. It shows, again, the lack of foresight, the lack of thought, the lack of, I would say, any sort of legal rigour in drafting this bill and, at the end of the day, unfortunately, despite its protestations to the contrary, the lack of concern for the safety of animals, which is what we're all here about.

So thank you very much. As you could hear, they're fightin' words from our team, and we'll continue to fight for the welfare of animals. Thank you.

Mr. Michael O'Sullivan: Thank you.

The Acting Chair (Mr. David Zimmer): Thank you very much. Mr. Colle, a little more than two minutes.

Mr. Mike Colle: Just a few points of clarification. You say right now that there is no need to have further authority given to the OSPCA because they can investigate.

Mr. Michael O'Sullivan: That's correct.

Mr. Mike Colle: I've been involved in trying to stop and close down puppy mills for 10 years. Right now, most OSPCA officers cannot enter the properties of these puppy mill breeders because they would be charged with trespassing. If the puppy mill barn is at the back of the farm, how does an officer, or how would a member of your association—your association would have no power whatsoever. You have no legal power whatsoever. Can you trespass?

Mr. Michael O'Sullivan: I appreciate what you've said, and I need to be very candid and very open about this. Because of the lack of training of OSPCA inspectors, we believe they ought to have the six weeks at Aylmer, the same as the rest of the police. They ought to be properly funded.

Most OSPCA inspectors, quite frankly, will spend the first five minutes of a conversation with you telling you why they can't do anything to help animals. I'm not kidding—that's 40 years of experience.

To answer your question specifically, that's where the undercover aspect comes in. I would go in and say, "I'd like to buy a puppy from you." I look around, I see what's what, I go back out, I swear out the information, and you get a search warrant.

Mr. Mike Colle: Yes, but that is very ad hoc. It gives you no—

Mr. Michael O'Sullivan: It's perfectly legal.

Mr. Mike Colle: It gives you no authority to investigate—

Mr. Michael O'Sullivan: Perfectly legal.

Mr. Mike Colle: But very ad hoc, and certainly not under any statute do you have the power to investigate as a citizen or as an officer, right? As an OSPCA officer or a police officer, you can't enter unless you have—even a police officer would have difficulty justifying the entry.

The other thing I just want to mention to you is—

Mr. Michael O'Sullivan: Sorry, if I could interrupt for one second: Right now, there is a writ of mandamus

which has been filed against the Quebec government because they're responsible for the enforcement of the provincial welfare act, and it's specifically after a puppy mill operator where a former staff member and other concerned citizens brought the evidence to the attention of ANIMA Quebec, which is the government agency, and they simply ignored it. There's an example.

Again, WSPA is another good example. They produced enough information and documentation to get a private member's bill on zoo regulations. They're not a law enforcement agency.

Mr. Mike Colle: First of all, we do not have that authority right now. That's why we're strengthening this legislation. That's why, right now in Ontario, if I notice that there's breeding of animals to fight—and they're being trained to fight all over Ontario and kill each other—whether they be poultry or dogs, there is no authority in any provincial statute right now to stop that. So this bill has the authority, through provincial legislation, to finally put a sanction on that, because right now, it's not on any federal—you talk about federal law. Show me in the federal Criminal Code where it's illegal to do that.

Mr. Michael O'Sullivan: Sure; not a problem.

The Acting Chair (Mr. David Zimmer): Thank you. Mr. Dunlop, about two and a half minutes.

Mr. Michael O'Sullivan: It's under section 4—

The Acting Chair (Mr. David Zimmer): Excuse me; we're going to move to Mr. Dunlop now.

Mr. Garfield Dunlop: I just want to say that we take your words under advisement and I really appreciate some of the things that you brought out here this morning. No one could agree more with the one comment that you made: that before this ever goes to third reading, this bill needs a lot more consultation. I agree with that and I appreciate those comments.

Mr. Michael O'Sullivan: I'll be glad to follow up, sir, later on, and explain.

Mr. Mike Colle: Sure.

TONY KENNY

The Acting Chair (Mr. David Zimmer): Committee, the 11 o'clock presenter, Tony Kenny, came in a minute or so after we started the last presentation, so, Mr. Kenny, you can have this slot. Please identify yourself for the record. You'll have 15 minutes. I'll give you three minutes' notice if you want to leave some time at the end for questions.

Mr. Tony Kenny: Thank you very much. I'm Tony Kenny and I live near Peterborough. I was born and went to school here in Toronto, but I've spent all of my life just south of Peterborough, every summer and weekend. I'm raising my family there. We have a resort; we have a farm. I've been involved with lots of organizations over the years. I have a real affinity for dogs, but I also have a menagerie of animals on my farm. I think—well, I know—that most people don't understand animals at all anymore. They all see what's going on with Disney and

they all think they're lovable creatures. They fight amongst themselves at times, and I'm very concerned about this legislation. There's way too much power going to the SPCA. This is a private organization, a charitable organization, and we've seen it. It's been happening. It's been in the farm newspapers. I know personally of several places where it's happened, that they're there more for enforcement and raising funds and money. That's what it comes down to: funds and money, more than anything else.

There may be a few places where there is cruelty, but there are also places—the way this legislation is written is, as you've already heard, poor. The problem with this type of power—absolute power corrupts absolutely. I've been inspected numerous times. There has to be some mechanism—and there isn't—to deal with inspectors who have too much power and are abusing their power. There should also be another mechanism, because I've had more complaints from people who just think that there's something wrong, and there isn't, and there should be some kind of method—there should be a complaints system so that you can reverse-charge them, because they made a complaint and it's nonsense. It's a nuisance complaint. Nuisance complaints happen on a regular basis. I've been on the local township council, and that was a standard thing. You'll have a neighbourhood feud and you'll have every inspector from every organization that they can find. So we need to deal with nuisance complaints and have a mechanism to do that. You need two mechanisms that this is shy of.

I don't think that there should be a section on warrantless entry. There should never be a warrantless entry. Warrants are a fundamental right all the way from common law and it should continue that way and not be watered down, and other sections of the law, and skirt around our fundamental freedoms under the Constitution and under common law.

Rural Ontario has been under assault in the last few years, and I don't think that anybody in Toronto understands how much rural commerce is in jeopardy. We're dying out there. We've got no money, nobody's working and everything we try to do is being regulated to death. And yet, here we have one more piece of legislation. Trying to use animals of any description is just a no-no now. Well, that isn't the way these things worked.

Every breed of dog has a special use or was derived from a special use. We've evolved the dog species. I'm a dogsled operator. The Siberian husky will pull automatically at the age of four to six months. Under this, I could be charged with duress, the way this is written right now, for using that animal to pull a sled. That's what that animal was bred for. The same goes for a Jack Russell terrier that I also happen to own. They will attack anything. It's going to get harmed if it gets into something too big, and it's going to do it: It thinks it's 10 feet tall. I could be charged.

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Where is the common sense? There is no common sense in this, from what I can see. If you're not a doctor,

I could still prescribe aspirin for my kids; I can do other things for my kids; I can put bandages on them; I have the administration of care. But under this piece, I do not have the administration of care for my animals. It sounds like I've got to take it to a vet, whether it's got a scratch or whatever. That's wrong. I have a duty, yes, but I should also be able to decide at what point that animal's under stress. That's the thing: I've handled enough animals over the years as a farmer and have administered penicillin and everything else, and that's still legal to do and it should remain legal. I don't need a vet and I don't have the money to pay for a vet, and then you're going to say, "Well, you should have done that"? That's just not right.

We keep trying to bring human traits, and these are animals: They're still animals, they act like animals. Some of them are predatory. You have pigs that will eat their young. You have dogs that will attack your chickens. When they're in breeding cycle, they attack each other, whether it's cocks or dogs. If you've got a female in heat, look out, you've got trouble. You can try to control them, but I'll tell you, you've got to physically restrain them and physically keep them apart, and that can't always happen when you're using them for working dogs, for guardian dogs, for herding dogs. That also goes for animals of burden, beasts of burden. There should be an exemption because you've got these other exemptions for agricultural, but there is none for use of dogs as in working dogs for sledding and other types as in hunting. If you take a dog hunting, there's a possibility it's going to tangle with a coyote if you're coyote hunting. That could be seen as cruelty the way these guys are going.

We need sections that will actually make sure that we're not incriminated by using these animals for what they were bred to do. It's just wrong. Right from the start, I disagree with a lot of this.

We keep talking about animal cruelty; there's a lot of human cruelty going on there out here. The other night they showed Miramar, with skeletons lying in the marsh on TV on the 6 o'clock news, but you can't do that with animals. There are things that go on, humans are just as destructive to each other, and yet you heard that the FBI says that's going to cause us to be bad people, that we're going to be criminals. I think that's a bunch of horse stuff.

Veterinarians are not the only facilities that can deal with these. I disagree with all the powers. Again, I'm just one individual, and to sum up I think it's mostly about money. I don't think it's about anything other than that and power. Power seems to be where a lot of things are going these days with this government. We've got a carp situation going on right now in our area and nobody seems to care—dead carp by the thousands, and the Ministry of Natural Resources is ignoring it. Here's a case of human cruelty. You come and smell that stuff lying in our river right now and yet nobody cares.

The Acting Chair (Mr. David Zimmer): Thank you very much. We have a bit more than two minutes per party, starting with the Liberals.

Mr. Dave Levac: Mr. Kenny, thanks very much for your opinions and your concerns expressed. Again, that's what committees are all about, to hear your concerns voiced, and they will be listened to. Thank you.

The Acting Chair (Mr. David Zimmer): Thank you. Mr. Dunlop.

Mr. Garfield Dunlop: I'd like you to comment a little more, Mr. Kenny—and I appreciate your coming today. I'm not sure if you have a written submission—

Mr. Tony Kenny: No, I don't.

Mr. Garfield Dunlop: Can you comment a little more on the warrantless entry section?

Mr. Tony Kenny: Like I said, I disagree that you need a warrantless entry. There are methods where they can obtain a warrant if they require it. It's not going away; if there's a problem, they can come in. The problem with warrantless entry is that they can show up at any point in time.

On farms, you have biosecurity problems, which don't seem to be addressed. There are cases where you're going to the vet or cleaning up, depending if it's at the end of the week. Your dog kennel could be looking a mess, and that's only just natural; it takes time. They don't know what your feeding schedule is, so they're looking at it and saying, "Well, this dog has no food." So there are those things.

So why you would require a warrantless entry—there's no reason that they can't ask. They should always ask to come on the property. There's no reason for them not to and to identify themselves. Even the fellow who was up here before, saying that he's showing up incognito: I think that's wrong too. That's entrapment, really, when it comes down to it. It shouldn't be allowed. They should ask to come on.

Mr. Garfield Dunlop: I can tell you, Mr. Chair and members of this committee, that this is something that, in the first four or five weeks since our summer break began, I've heard from a lot of my constituents, particularly folks in agriculture and rural communities.

The Acting Chair (Mr. David Zimmer): Ms. DiNovo, about two and a half minutes.

Ms. Cheri DiNovo: Certainly, we in the New Democratic Party—our hearts go out to the farmers. I read in an article recently that the average farm income is in the negative now, not in the positive. I want to thank you for coming, taking your time and deputing here. We certainly hear you about the warrantless entry. So thank you, Mr. Kenny.

Mr. Tony Kenny: Just to go back to the farms: It's not just the farms; it's rural commerce in total that is suffering. Tourism is down to nothing and farming is terrible. Gas prices are another thing. If we can't use these—in some cases, I think you're going to see more use of other forms of transportation, like animals, and yet with this it may not be allowed. It's just another source.

The Acting Chair (Mr. David Zimmer): Thank you very much, Mr. Kenny.

CANADIAN LEGAL ACCOUNTABILITY WATCH

The Acting Chair (Mr. David Zimmer): Canadian Legal Accountability Watch—Lynn Miller.

You'll have 15 minutes. I'll give you a three-minute warning at the end. Any time you leave at the end can be used for questions from the committee. If you'll introduce yourself for the record.

Ms. Lynn Pitney-Miller: My name is Lynn Pitney-Miller. I wanted to thank you for the opportunity to speak today.

Before I start, I would like to overview a couple of definitions. Of course, the first definition is "government." We all know that government is for the people. For the people: That's responsible government.

I've given you an affidavit with my documents. One of the exhibits is actually from your own website, from the Ministry of Community Safety's website. There, they have actually acknowledged the importance of protection in this province. They have a mandate here and they state that they are committed to effective and efficient officers, those who are also accountable. There, I believe, is the word that should be used to cover the whole problem of today: accountable. Is the SPCA accountable?

As you know, the Attorney General deals with points of law, with the principles of natural law. The Attorney General is interested in the law, and the documents that I have copied here and that hopefully many people have a chance to peruse are documents from your own government, so you don't have to take it from me.

If I could just go to the bottom of the page, I have from your own government—the Ministry of the Solicitor General—an overview of the OSPCA, where they define it. They begin by saying that it is an independent charity. So I think, at this point, it's interesting to note that most people believe that the OSPCA is a government agency, certainly accountable to the people, certainly accountable to the government. The people in general don't know that they are an unaccountable group to government and public, that they hire their own boards and that their boards can then make rules. So they're totally self-regulatory. Today you are discussing with great sincerity and seriousness the fact that these people, this private corporation with no government accountability, should be given greater powers over the public. That's a concern to me.

1120

So many people in this room are animal lovers, and I just wanted to say that I'm an animal lover equal to anyone here, but I'm also something else. I'm a fraud investigator and I've been doing that all my life; I do that as well. I see no reason why animal lovers, animal activists, whatever, cannot also be credible, accountable to the government, accountable to the people; why it ends up a fight. It's "We here" against "You there." "Oh, there's an animal protection person. I'd better hide my kitten or she'll see that it doesn't have its fur combed." That's very wrong because the animals need us all. They

need you and they need people over here on the other side. But if the people who take a stand and are law enforcement officers for the animals, if they're not accountable, the whole fight becomes a laugh. You do help a few animals if there is indeed a problem, but on the whole the reputation for the animals is ruined and many human beings are devastated.

I've included here an overview letter, and I also have a letter from your Ministry of Community Safety; it was James Young at the time. Bottom line: I had a sister who lived in Orangeville. All her pets were taken in the middle of the night by a group that was about an hour and a half away from Orangeville. There is the Caledon and Orangeville humane society that could have been brought in but they weren't. The other group of activists—anarchists—did it for them, I guess. Again, we're talking about a credible organization. So they came up and took all her pets. When my sister called them for her animals, they informed her they were all dead. I had seen those animals days earlier; they were not unwell animals.

So I thought, "I've got to dig. I have to find out what that group is all about." This is a very large, rich organization that you all know, probably—very rich. Could it be possible that they'd do such a thing? "How could they do this if they had law enforcement powers?" I thought, with my little investigation brain turning on. I've dealt with many big cases. The last one was Martha Stewart. The most important case I dealt with was the "Hurricane" Carter murder case. That man went to jail for life, and it was evidence that we were able to bring forward dealing with forensic handwriting that contributed to his being released. And then they made the movie, *The Hurricane*, out of it. That was a really important case. So my life has been this. I'm court-qualified to present expert testimony all over Canada. So when that happened to my sister, I started to dig. This letter here from Mr. James Young makes it clear that this organization, a very rich one, lacked statutory powers under the OSPCA Act. How many months—no, not months; between 1987 and 1997: 10 years. And just for your interest, the same organization has been re-affiliated by the SPCA. "Credible these people are; we need to give them more power." Yes, that's what you'd say.

When I started to reveal the fact that a fraud had been perpetrated on the people of Ontario, I wasn't exposing it to the public; I was exposing it to the officials. No one knew. The province felt that the group was covered by the city bylaws; they weren't. The city felt they were covered by provincial, and it went nowhere. Because I knew they were going to justices of the peace and laying charges against the alleged cruelty-to-animals people, they were laying charges as officers, which was wrong. It was impersonation. The bottom line is that the assistant justice, Marietta Roberts, sent letters to all her JPs telling them, "Do not lay charges. Let them lay charges as officers." This is a civilian body. I sent the same memo over to the head of crown operations, and the head of crown operations sent that to all the crowns in Ontario. Was there any concern about them not being account-

able? They weren't just lacking accountability; they were actually totally illegal. But as I say, they're brought back, so if you give them more powers, you'll be giving that wonderful organization more powers as well. But they've changed, have they? The last I know—well, you've heard about handcuffing people to doors. Yes. They're very serious now, this organization. They just took a dog from a woman who was in Europe somewhere. The dog was taken because it was in an accident. This organization, holding on to this animal, is now telling the woman, "Thirty grand; peachy or no puppy." That's nice. That sounds like—what's that: Extortion? I don't know what the naughty words are. This is wrong, what's happening today, and I underline that I am an animal lover.

Okay, let's just jump. I just hope you'll have a chance to peruse these. In a nutshell, I called your ministry two years ago. I just wanted to make certain that I can ask any court I go to, any kind of media I want to speak to, to call the ministry to confirm that ABC group was illegal for those 10 years. The ministry will expose it, won't they? No. And if you look at your own documents, you'll see the ride I was put on. I was told by the ministry, "We don't have that information." That was the first response. Then, after that, Mr. Zimmerman suggested that I contact the OSPCA itself. I think he also suggested in his letter that I call the group that had committed all the naughty things. Imagine: "Hi, guys, did you commit all those naughty things?" "Of course we did!" A bit of an insult or slap in the face. So his suggestion was that I call the SPCA. I wrote a letter to the SPCA, and you're more than invited to read the response from the group that wants the sweeping powers against the public. It essentially said, "Don't call us." I asked what powers they had between that date and that date: "Don't write us, don't phone us, don't fax us. If you come close to our office, we will proceed under the trespass act." What a fine group of people, what a loving group of people, prepared to have open communication with the public; definitely a group to have increased powers.

I'm in a position now—I've been through 10 years of utter hell because of our friendly organization. I know that ex parte orders are their thing. Ex parte order: You put it through in a person's absence. The next thing is that the person gets this document in the mail and goes, "Oh, my God, the courts are even against me." And they say, "I'd better do something or I'll end up going to prison." This is wrong; this is very wrong. I'm not a fool, and I'm very aware of that. We're not in a society and we cannot be in a society where a government misses the point, when our governments fail to realize that, when you give powers to an independent corporation and that corporation has no accountability to the public or to the government, that is a recipe for utter disaster. I believe that farmers who abuse animals should have a government official knocking at their door and asking why, not the SPCA—or that a government deputy be in charge, that they direct the little people under him or her in the form of the SPCA or any of their affiliates. Then, suddenly, farmers won't be here as mad as Hades. The

animal people, pet owners, won't be here. They will say, "Look, if these people feel that I'm in the wrong, I must be." We've got someone who's not biased, someone who doesn't think that, because my pig's ear is cut, I'm a mean person. This is what's happening. You've got to go deeper. You've got to look at the credibility of the organization you're giving the power to. I really believe that, based on the runaround I've been given, not just by the group but also by the government, we the people are in the position where we should be able to phone the government and ask them about an affiliate. Did that affiliate—which, by the way, they've reaffiliated—lack power between this date and that date? We should not be told to go and call the affiliate; "They'll tell you." There's something wrong there.

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So I think, sadly, we've got to look at the government, because you can keep this up forever. People can sit here and point fingers to the SPCA: "Naughty, naughty." We've got to look at a government that has not been able to come up with decent legislation. We have to look now at our government. Again, as you know, the ministry in question makes it quite clear that they are concerned about public protection. You look at your own mandate. Isn't it true there's something called "breach of duty" when a government—I don't know if it's a government—or anyone breaches the duty that's been given to them? That results in negligence suits, etc. I, without question, will be on the bandwagon. I'll be one of the first to move to get a negligence suit through against this government. I don't believe I'll ever do such a thing, but if this goes through without provisions that make very clear that there's government involvement—there must be government involvement, because if they're allowed to go free like they have, everyone in Ontario is in big trouble.

There's so much more I wanted to say, like everybody else, but I thank you very much for this opportunity. I would love to answer any questions.

The Acting Chair (Mr. David Zimmer): We have two minutes left, so just very briefly, Ms. DiNovo, starting with you.

Ms. Cheri DiNovo: I have no questions. Thank you very much, Ms. Miller, for coming out.

The Acting Chair (Mr. David Zimmer): Mr. Levac?

Mr. Dave Levac: Thank you very much for making your presentation and providing the documents. I have briefly gone through them, and I'll continue to do so.

The Acting Chair (Mr. David Zimmer): Mr. Dunlop?

Mr. Garfield Dunlop: Thank you very much, Ms. Miller. I appreciate your comments as well and look forward to the responses. We don't really have a lot of time to get into this right now, but thank you very much for taking the time today.

The Acting Chair (Mr. David Zimmer): Thank you very much for your presentation today.

Ms. Lynn Pitney-Miller: Thank you very much. Because of the different issues that I brought forward, I

hope you do look at my documents as well as your own files, and you'll see what's up there. Again, I thank you so much for helping.

CANADIAN ASSOCIATION OF ZOOS AND AQUARIUMS

The Acting Chair (Mr. David Zimmer): The next presenter is the Canadian Association of Zoos and Aquariums; Mr. William Peters, national director.

If you will introduce yourself formally for the Hansard record; you have 15 minutes. I'll give you a three-minute notice at the end. You can leave whatever time you want for questions from the committee.

Mr. William Peters: Thank you very much, Mr. Chairman. My name is Bill Peters. I'm the national director of the Canadian Association of Zoos and Aquariums. I am accompanied here today, by the way, by three colleagues, members of the Canadian association. They are Ontario members. I'd ask them to join me. They are Mr. Calvin White, who is the chief executive officer of Toronto Zoo; Mr. Michael Takacs, who is vice-president and general manager of African Lion Safari; and Tracy Stewart, who is the director of administration for Marine Land of Canada.

The Acting Chair (Mr. David Zimmer): So you can divide your time. You can use it or you can distribute it among your—

Mr. William Peters: Yes. We have provided a brief for the committee. My intent is to go through it in brief summary form, and then we're anxious to answer any questions or discuss with the committee members if there are points of clarification that are required.

Let me first of all describe very generally: The Canadian Association of Zoos and Aquariums is a national organization that represents Canada's 25 leading accredited zoos and aquariums. They are located from coast to coast. We have a long-established accreditation program, which is a form of licensing. We have a very elaborate, comprehensive and demanding set of standards that apply to all the members of our association who are accredited through our accreditation commission, which requires complete documentation of all aspects of their operation, followed by an on-site inspection by a team of our experts. Their views are then reported to our board of directors, which takes decisions based upon the accreditation commission and provides for the accreditation of our members. They are required, following that, to adhere to all of the standards in our approximately 70-page accreditation document, which apply to literally every aspect of their operation, from not only the care they provide for their animals, which is required to be first-rate—our standards are among the best in the world. We have reviewed them over a number of years, we have taken the best from the best in various countries, and we ensure that the members of our association live up to those standards, not only in animal care but in the security for both their animals and their visitors, the services they provide for their visitors, the nutrition for

their animals, the financial management of their operations and, significantly for this committee, that they are engaged actively in programs of conservation dealing with species survival programs for endangered species from both Canada and around the world, that they engage in research that supports those programs and, very significantly also, that they are involved in active programs of education for both their visitors and for institutions and individuals in their communities.

That, very succinctly, is the requirement that we have to join and be a member of our association. It is the model that we believe is appropriate for zoos and aquariums in the 21st century. It is what we have been advocating be realized in the province of Ontario so that all zoos in this province reach the same standard of excellence that we demand of our members.

We are encouraged that the government is moving forward with Bill 50 and we support very much its objectives of better protection of animals and the provision of animal welfare. We believe firmly, however, that as presently constituted, it will not take Ontario from what some have described as a problem case with respect to some substandard zoos to the model of the 21st-century zoo that I just described very succinctly for you.

We have some specific recommendations that we believe will improve the application and the results that will be realized through Bill 50. I should say, by the way, that our association has been on record for many years advocating the kind of progressive move that I have described, and we have had extensive discussions with the ministry and with other individuals, including Mr. Chairman, about how best to achieve that model. We have specific recommendations with respect to Bill 50 that we believe will move further in the direction that we believe is appropriate for the province.

One of our very specific recommendations is that there be an exemption provision in the legislation for zoos and aquariums that are accredited through the accreditation process that the Canadian Association of Zoos and Aquariums maintains. There are several specific reasons for advocating that exemption. The first—and, we believe, the most important—is that it will provide an incentive for the present substandard zoos to upgrade themselves, to improve their operations and to ultimately aspire to accreditation through our association.

I should stress that that is not a self-serving recommendation; it is to achieve the objective of encouraging Ontario zoos to move forward, to solve their problems and to become progressive members of their communities and of the international association of zoos and aquariums. It is also based on the reality that CAZA's accreditation standards will be more demanding than those that will be able to be introduced under Bill 50. It is simply a fact, we believe, that the purpose of the legislation will not enable the province to bring in the kind of comprehensive standards that we demand of our members. Therefore, the situation will remain that our accredited members will be superior in most aspects of their operations as compared to the other zoos in the

province, and therefore, it would seem to us to be redundant to demand an inspection of those facilities by the province.

Perhaps, not inconsequentially, if that exemption is granted, it would save the province some funds that would otherwise be invested in an inspection that would be less rigorous and demanding than that which we already maintain for our accredited members. We would hope that that would also result in at least a certain percentage of those facilities upgrading themselves to, if you wish, the gold standard that we maintain.

We have concerns, as were identified by the previous witness, with respect to the extraordinary authorities that Bill 50 will provide to the inspectors of the OSPCA. We view those as police-like powers that will be granted to inspectors who are not fully qualified—and in fact, I am being conservative in that assessment—to deal with the complexity of situations and animals and species that are found in the zoos in this province. They need additional training in order to adequately carry out those responsibilities, and we have some subsequent recommendations dealing with that particular issue.

As for the extraordinary powers that this legislation provides, they are being allocated to individuals who do not have adequate training in the zoo industry, and neither are they fully qualified police officers. In view of that, it is our very strong recommendation that the legislation needs to have accountability mechanisms—that was the point made by the previous witness—and those accountability mechanisms need to be open to the public and transparent and accountable. There is need for an oversight body and a mechanism to ensure that there is appropriate oversight of the program being instituted by the OSPCA under this legislation and that they are fully accountable to government for the actions that they are taking.

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I mentioned that in our estimation the present staff of the OSPCA are not adequately qualified to deal with the broad range of animals and species found in zoos in this province. Our association has provided some initial training for some of those inspectors, but it is not anywhere near the level of qualification that we demand, through our accreditation commission, of the inspectors who do our accreditation program. We employ individuals who are renowned in their profession. They have the appropriate extensive educational background and, in most cases, a lifetime career of experience in dealing with exotic and native animals throughout Canada. They have dedicated their careers to that. They are the highest experts in their fields. We ensure that we use only the best in our accreditation program. In comparison, the OSPCA staff presently have a couple of weeks of training, and they simply will not be able to deal with the range of animals and conditions found in the zoos that they are going to be required to inspect. So we have recommended very strongly that there be a team of inspectors who inspect zoos for the standards that will be brought in and that that team include a CAZA-certified

expert as well as an inspector from the Ministry of Natural Resources, in addition to the OSPCA inspector. That would provide the team with the necessary expertise to make appropriate decisions based upon what they see on the ground.

We also believe that it is vital that the standards introduced under this legislation are appropriate and that they are as close as possible in this legislation to those in our accreditation program. We have offered to the ministry and the province to bring together a working group of experts to modify our accreditation standards to meet the requirements in Ontario and the limitations of this legislation. We are pleased that the ministry has agreed to that proposal, and we are prepared to immediately bring together that group of experts to do that work.

Finally, we recommend very strongly that a CAZA representative, an expert with the appropriate credentials and qualifications, be appointed to the Animal Care Review Board, which will provide oversight for decisions taken by the inspectors who are investigating suspected cases of animal abuse etc. Again, we believe that will provide the experience that is required in order to make appropriate decisions based upon cases that are brought to that board.

That, in essence, is the substance of the report that we have tabled for the committee. In making those recommendations—if they are adopted by the committee and by the government—we believe that Bill 50 and its application will be greatly improved. That being the case, we would still like to see the legislation go further than what will be possible in this particular piece of legislation, and we are prepared to work with the government to make that sort of progress in the future.

We would be delighted to answer questions.

The Acting Chair (Mr. David Zimmer): About two minutes per party, beginning with Ms. DiNovo.

Ms. Cheri DiNovo: I think I went first last time.

The Acting Chair (Mr. David Zimmer): No, you're first this time.

Ms. Cheri DiNovo: Oh, really?

Thank you very much, Mr. Peters, for coming. This is not directly related to what you do, but I just was interested in what your opinion on section 6 is. We feel very strongly that this has no place in this legislation. This is the section that deals with calling yourself a humane society by others other than the OSPCA. Do you have any opinion about that?

Mr. William Peters: I have a personal opinion, but our association does not have a stated position with respect to that. We recognize the kinds of concerns. I should say that a number of our members work very directly with their local humane societies and are actively engaged in the work that they do in their communities. I might ask our members if they have particular comments in that vein.

Mr. Michael Takacs: Again, not CAZA's position, but I know our local humane society is upset about it. I believe they are doing a presentation to the committee in

the next few days. We've been a long-time supporter and we understand their concern.

Ms. Cheri DiNovo: Thank you for that. Also, in terms of your own recommendation—clearly, on behalf of zoo animals and fish in aquariums etc., there needs to be some sort of inspection process. This is one of the things we're hoping comes out of this bill, better protection for the animals in these conditions. Your recommendation is—and I just want to be clear about this—that somebody from the Ministry of Natural Resources, one of your own experts and an OSPCA person be that investigative team. Is that correct?

Mr. William Peters: Yes. That recommendation is specifically with respect to the inspections that will determine whether or not the standards that will be introduced through the legislation are being adequately met.

Ms. Cheri DiNovo: Because right now, zoos aren't mentioned in this bill. There is no mention of zoos.

Mr. William Peters: That's right.

Ms. Cheri DiNovo: We hope that there will be something stronger. Do you hope that there is some mention of zoos in this act when it finally goes to press, so to speak?

Mr. William Peters: Yes. We believe very strongly that the standards that are needed, that should apply to zoos, as I've said in my presentation, should be modelled on our existing accreditation standards, and they should be specific to zoos because there are very special requirements.

Ms. Cheri DiNovo: Thanks very much.

The Vice-Chair (Mr. David Zimmer): Thank you. We'll move to the Liberals.

Mr. Mike Colle: Thank you for your presentation. I'm not quite sure—you seem to be advocating for self-regulation. Is that what you're advocating for, that your association in essence regulate itself? Are you opposed to government oversight through the OSPCA?

Mr. William Peters: No, we are not. I should make clear that when we talk about an exemption from inspections, we mean with respect to the maintenance of standards. We do not advocate at all exemption from the abuse provisions, the investigation of cases of abuse. Those are very separate circumstances. Our case with respect to the exemption is based entirely on the reality that our accreditation program, as I have described, has exacting, demanding standards that will be superior to what will be introduced under this legislation, and therefore a provincial inspection would simply be duplicative. We do not advocate at all that there be an exemption with respect to the enforcement of the animal welfare provisions, investigation of cases of abuse etc.

Mr. Mike Colle: Because right now, there are basically no standards of care in those roadside zoos. They're all over the place in Ontario, and not in any way to equate those roadside so-called animal places—I don't even call them zoos, really; it's almost inappropriate to do that—with your organization. I guess what we have to find is a higher level of expertise so the OSPCA can deal with the sophisticated animals that are found in aquar-

iums and the real zoos in Ontario as opposed to the roadside operators.

Mr. William Peters: It's a reality that many of the roadside operators, of course, have a broad range of species, including exotics, and that is a result of the fact that they are not presently required to be licensed in the province, and some of the operations are extremely questionable. They would not be exempted, of course. What we're advocating is that if you meet our accreditation standards and have gone through the extensive, demanding process that I have described, those facilities would qualify for an exemption. But if they do not meet our standards, they would, of course, be subject to this legislation.

The Acting Chair (Mr. David Zimmer): Thank you. We'll move to Mr. Dunlop.

Mr. Garfield Dunlop: Thank you. I'll be very quick, Mr. Chair. Thank you very much for your presentation this morning. I know you do some fine work in the province and I appreciate it.

You mentioned CAZA possibly offering to have someone sit on the Animal Care Review Board. How would you feel—this is just your own opinion; I'm not sure it's a position of your organization—about sitting on a board like that, like the Animal Care Review Board, with representatives from the Ontario Federation of Anglers and Hunters and the Ontario Federation of Agriculture?

Mr. William Peters: We would have no difficulty whatsoever. We would very much support that.

Mr. Garfield Dunlop: Okay, thank you.

The Acting Chair (Mr. David Zimmer): Thank you very much for your presentation and taking the time to come in today.

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RONALD HOUSE

FRED LEITCH

The Acting Chair (Mr. David Zimmer): Ronald House, Fred Leitch?

You'll have 15 minutes. I'll give you three minutes' notice at the end. You may want to leave time for questions from the committee, at your discretion. If you'll introduce yourself for the record.

Dr. Ronald House: I'm Dr. Ronald House. I have racehorses, dogs and cats, and I live in the country. In my professional life, I have occasion to review legislation. When I read this bill, I was concerned because of the way it was drafted. I'm not an expert in law and I felt that I needed to retain the services of a lawyer to go over the actual drafting of it.

My particular concern is with section 11, which I thought was way too vague. The other concern that I have, which has been echoed this morning, is the concerns about warrantless search and about the powers that will be given to the OSPCA, which I think historically, at times, may have been somewhat dysfunctional. I'm

therefore surprised that the government would pass these powers on to such an organization.

I've asked Mr. Leitch, then, to take a look at my concerns and to provide the committee with alternative wording or amendments to the legislation. So I'd like Mr. Leitch to take it from here.

Mr. Fred Leitch: Thank you, Mr. Chairman. I was retained, as Dr. House has said, to review the proposed amendments with a lawyer's eye to see if there were any weaknesses or conflicts as proposed. I have set those forth in my brief, which has been filed with you. They are three in number. I'm going to deal with them in reverse order. Firstly, I will deal with medical research; secondly, the police powers which are continued and conferred; and finally, the conflict that I identify with the legislation which protects and permits hunting in the province, the fish and wildlife conservation heritage act and the Fish and Wildlife Conservation Act.

Firstly, in respect of medical research, it's my submission on behalf of my clients, one of whom is a medical researcher, that using animals for medical research needs to be exempted from this statute. It is currently regulated under a provincial statute, which is called the Animals for Research Act, 1997. It seems to me that inasmuch as there's specific regulation of that activity, it should be exempted from the activities of the inspectors under this act.

In respect of the grant and continuation of police powers, it's my observation and submission that those powers, understandably, as we see from the way they are operated in our province, require a comprehensive set of guidelines and procedures to ensure that they're properly applied. The police act and its regulation is the governing act for police activity in the province. There is a comprehensive set of offences described in the police act regulation. There is a chain of command from the police chief down. The public complaints system of Ontario operates as a check of what the police do, and police officers are highly trained, well qualified and go about their business, in my submission, professionally. That kind of supervision, in our submission, is important when you grant those powers to others.

The problem with this legislation is that there's just a general granting of those powers by a person who is an employee of the OSPCA. He is not a police officer. He may be, I suppose, but I would doubt that he would be. There's no scheme to ensure that inspectors appointed by him carry out the powers of a police officer appropriately. The regulation itself gives the Lieutenant Governor in Council the ability to pass regulations in that regard. It's our submission that great care should be taken that that regulation be, at least in draft form, for the purposes of deciding whether or not that grant of power should be in the legislation. You can't, in our submission, give police powers without protection of the public.

Finally, there's a critical conflict with legislation permitting and licensing and regulating all forms of hunting. Hunting is a lawful right under the heritage conservation act of Ontario. It is regulated in the extreme by the Fish

and Wildlife Conservation Act. That is done by a variety of methods, as I point out in my brief, ranging from absolute prohibition, seasons, prohibited methods. There is enforcement by conservation officers who are appointed by and answerable to the Minister of Natural Resources. Police officers are conservation officers by virtue of their office. Under the Fish and Wildlife Conservation Act, there are quite specific powers of search, seizure and arrest. The difficulty is in the offence created under section 11. It creates the offence of causing an animal to be in distress. The word "distress," in turn, is very largely defined in my submission in the definitions section. By its very nature, hunting, which is lawful, causes an animal to be in distress. Indeed, it causes an animal to be destroyed. In circumstances, they are chased by hunters on foot and by hunting dogs. All of that activity is regulated in another provincial statute.

Our submission is that leaving the definition of "wildlife" and "circumstances or conditions" to the regulation power is not the way to go about it, because what will happen is that there will be an apparent level of poaching by the one authority on the jurisdiction of the other.

The offence of causing an animal distress is exempted by clause 11.2(6)(a), which provides that subsection 11.2(1) does not apply to fish and wildlife being lawfully hunted. The difficulty is the question of, what are fish and wildlife and what are the circumstances that will be exempted?

A better way to do it, in our view, is to simply exempt lawful hunting of fish and wildlife, that being lawful hunting in accordance with provincial laws and regulations, namely, the Fish and Wildlife Conservation Act.

There are also some difficulties and conflicts with respect to hunting dogs, which are regulated under the fish and wildlife act, and certain hunting raptors that are also regulated under the fish and wildlife act by licence. It's our submission that the hunting by dogs and hunting by raptors, which impliedly involves fighting with other animals, should be exempted. If it's lawful under the fish and wildlife act, it should be exempted from the OSPCA act. There is simply an inherent legislative conflict unless some care is taken.

That constitutes my submission with respect to the amendments as proposed.

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The Acting Chair (Mr. David Zimmer): All right, we have about two minutes and a bit per party, starting with the Liberals this time.

Mr. Dave Levac: Thank you very much for your presentation and recommendations. They're worthy of consideration, and after the hearings we'll be debating those types of amendments that could be offered that would strengthen the bill. I appreciate very much your presentation.

The Acting Chair (Mr. David Zimmer): Mr. Dunlop?

Mr. Garfield Dunlop: One of the examples I've heard being used a few times through the hunting community, and they're very concerned with this bill, is

that when you talk about an animal in distress—for example, a hunting dog tracking a deer through the woods. If someone was to find that dog and the dog did not have any water—he was panting, for example, and looked like he was thirsty; that’s what a hunting dog would do in that case. When you look at this legislation, could you find any reason why the legislation would call upon the OSPCA to actually charge the hunter because the dog looked like it needed a drink of water?

Mr. Fred Leitch: Yes, the offence says, “No person shall cause an animal to be in distress.” The section defining distress says, “‘distress’ means the state of being in need of proper care, water, food or shelter or being injured, sick or in pain or suffering or being abused or subject to undue or unnecessary hardship, privation or neglect.” All of that description simply calls for an examination of the factual circumstances and a decision by somebody, presumably an inspector, who would say, “You’re causing that hunting dog to be in distress,” when the dog is doing what it does naturally: chasing a rabbit and getting winded and thirsty. Is that an offence? I think not, because under the fish and wildlife act, the use of the dog is permitted by law and the hunting is permitted by law. That’s the problem. You’ve identified the very problem that exists in the legislation and needs to be solved in some fashion.

Mr. Garfield Dunlop: And that’s what I’m hearing from my constituents. I’ve got a number of angling and hunting organizations in my community and they’re very, very concerned. The government says there’s an exemption here. It doesn’t include hunting and fishing; it doesn’t include agriculture. But when you get into the details, an OSPCA inspector could in fact—the way this law’s written, my understanding is that he could actually be charged because the dog looked like it needed a drink.

Mr. Fred Leitch: The devil is in the detail and the devil is the decision made at the time the facts present themselves. Care should be taken now to ensure that people are not being charged when they’re undertaking what is a lawful activity.

The Acting Chair (Mr. David Zimmer): Ms. DiNovo.

Ms. Cheri DiNovo: Thank you, Mr. Chair, and thank you, Dr. House and Mr. Leitch, for coming and deputing. I certainly agree with your sentiment that this bill leaves a lot to be desired in terms of legal drafting on a number of fronts. Thank you for bringing attention to a couple of them.

I wanted your insight, really, into point number three that you raise. I certainly take to heart the section 11 comments that you made because I think they’re absolutely accurate. It’s confusing, section 11.2(1)—section 11.2.(6)(a) is also equally confusing, and again, overlaps with another bill. For section 3, you say there’s no evident protection for persons engaged in medical research, applying animals for that purpose. I’d like to hear your take, either of you, on what you think those protections should be. In other words, if you feel this bill maybe goes too far, what should be in place?

Mr. Frank Leitch: My submission is that the bill should exempt that activity because that activity is regulated under another provincial statute in the same way that hunting is. The Animals for Research Act creates a licensing and regulating system which is controlled by the province.

Ms. Cheri DiNovo: Yes, I understand that. But this bill purports, at any rate, to deal with animal welfare and to look after those animals that are the subjects of medical research. It perhaps gives sweeping powers to the OSPCA, which we all have some issues with, but it’s pretending, at least, to try to look after those animals. Do you think more needs to be done for animals that are the subjects of medical research, and if so, how would that be enforced?

The Acting Chair (Mr. David Zimmer): Just briefly, if you could.

Mr. Fred Leitch: I guess I would pose the question: Are the animals being used for the purposes of medical research more important than the object of the medical research? That, of course, is a policy decision that you will have to make.

Ms. Cheri DiNovo: Just very quickly for the record: There are ways of doing research on animals that are ethical and unethical, presumably. My question is, how do you enforce the ethicality of the research? I know we don’t have time to get into it. Thank you, Mr. Chair.

The Acting Chair (Mr. David Zimmer): Thank you very much for your presentation and for taking the time to come and visit with the committee today.

SUNNY REUTER

The Acting Chair (Mr. David Zimmer): Sunny Reuter and Samantha Reuter?

Hello. You’ll have 15 minutes to present. I’ll give you a three-minute warning towards the end, and you can leave any time you want for questions at the end. Are you Sunny or Samantha?

Ms. Sunny Reuter: My name is Sunny. My daughter is Samantha. She’s unable to be here today.

The Acting Chair (Mr. David Zimmer): If you could introduce yourself formally for the record, and you can begin.

Ms. Sunny Reuter: Thank you. My name is Sunny Reuter. I’m a resident of Ontario. I thank you for the opportunity to speak to Bill 50.

I became interested in provincial animal legislation after the OSPCA seized and killed our dog Arko while my daughter and I were on vacation in August 2003. I’m here today to share my hope for an accountable, transparent and sustainable animal welfare system in Ontario, one in which the Ontario SPCA, government, industry and animal owners all work together. In order to get there, some difficult truths must be acknowledged.

The issue of OSPCA accountability and transparency: The OSPCA was founded 135 years ago, on July 4, 1873. Fourteen years later, in 1887, the Ontario Board of Police Commissioners appointed a full-time police officer to

deal with the issue of animal cruelty. In 1919, legislation granted the OSPCA the right to investigate cases of animal cruelty. No provision for accountability or transparency was made.

In 1955, legislation gave the OSPCA the power to enter property, carry out investigations and remove animals. Again, no provision for accountability or transparency was made. And in spite of much greater expense to the OSPCA, no provision by the government for long-term stable funding was made. The Ontario SPCA was left with the responsibility to solicit donations to exercise their provincial mandate.

That this model was flawed became apparent in the late 1980s. Ontario Federation of Agriculture President Brigid Pyke approached David Ramsay, the agriculture minister, in 1989, asking that police powers be removed from the Ontario SPCA. Since then, confrontations between the OSPCA and animal owners have been numerous and bitter.

Legal action naming the Ontario SPCA is increasing in number and severity. In several recent cases, the Ontario SPCA has negotiated confidential settlements. The province has given 7.5 million taxpayer dollars to the OSPCA within the last two years. This is a private charity that is not subject to freedom of information.

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In spring of 2006, 29 out of 36 OSPCA directors publicly resigned, asking the Premier to remove police powers and investigate spending. Terry Whiting from the Office of the Chief Veterinarian, Manitoba Agriculture, Food and Rural Initiatives, writes in the Canadian Veterinary Medical Journal, November 2006, "Private funding of policing activities poses challenges to credibility and maintenance of a just and transparent enforcement process. Animal welfare policing services should be provided as a professional public service and not linked with self-funding initiatives." In a publicly funded enforcement model such as that in place in Manitoba, animal protection officers have similar powers. However, appeals of actions of officers are made directly to an elected official, the Minister of Agriculture.

Bill 50 more than blatantly ignores significant repeated requests for OSPCA accountability and transparency; it seeks to grant even greater police powers, including the right to warrantless entry. The Ontario SPCA is officially recognized, mandated, empowered, and recently significantly funded by the province. It has all the characteristics of a provincial governmental organization. I'm asking the committee today to consider recommending reclassification of the Ontario SPCA from a charity to a provincial governmental organization. That would then ensure it falls under the jurisdiction of the Ontario Ombudsman and make it subject to freedom of information, which would begin to address accountability and transparency issues.

The issue of advocacy and enforcement in the same hands: The OSPCA website states that the society's programs and services include "cruelty investigations" and "government and industry advocacy." The question is,

should advocates be enforcing legislation? Who decides "adequate" food and water, "adequate" shelter? Who is the ultimate authority? Ontario SPCA inspectors, most of whom are not familiar with animal husbandry standards and practices, are legislated as the ultimate authority.

The Ontario SPCA considers itself to be at the forefront of animal welfare. It openly advocates the abolishment of certain farming practices. It also is openly associated with animal rights/anti-captivity organizations. Should the Ontario SPCA be the ultimate authority to interpret and enforce Ontario's animal welfare legislation?

I'm asking the committee to recommend that detailed standards of animal care be put in place before Bill 50 becomes law. Not doing so would be like mandating Mothers Against Drunk Driving to autonomously enforce the Highway Traffic Act with all the speed limit signs removed. Citizens of Ontario have the right to know exactly what is expected of them.

Nowhere to turn: In 2003, OSPCA Chief Inspector Mike Draper stated, "You are guilty until proven innocent." I asked the Ontario SPCA vet for permission to see my dog one last time and take home his collar. I was told, "He is evidence, and you are a suspect in a criminal investigation." I was repeatedly threatened with criminal charges. None were laid. The OSPCA did lay 10 charges against the kennel owner, all of which were dropped mid-trial without explanation, apology or compensation. I felt I was in a nightmare. "Who is this OSPCA and where did they get their power? To whom are they accountable?" I was determined to understand. I wrote to Minister Kwinter. His office advised that the day-to-day dealings of the Ontario SPCA were not under the care of the ministry. The Ombudsman said he had no jurisdiction. I had been made clearly aware of the OSPCA's mindset and power, and the media only sang the OSPCA's praises. Where to turn?

In November 2003, I stumbled across a story in *Better Farming* magazine, "The Limping Pig." Jack, a large black boar born with a limp, was shot in his pen because the OSPCA assumed he had been abused. The farmer was criminally charged. Those charges were dropped pre-trial. Since that time, I have come across court documents and stories like this proving that accountability is a serious issue.

A Dutch warmblood horse, born with short tendons and a stiff gait, was also killed for the same reason. After the Ontario SPCA left, the farmer mounted a video camera on a ladder and filmed himself cutting the legs off the dead horse. He wrapped them and placed them in his freezer for analysis by the Ontario Veterinary College. The farmer knew this was the only way he could hope to prove his innocence. Charges were laid and later dropped without explanation, apology or restitution.

Another family had 87 animals seized on a first visit. The father suffered a heart attack immediately thereafter. The animals were ordered returned to the farm by the Animal Care Review Board. The family could not afford to pay OSPCA seizure costs. Criminal charges were laid.

The farmer states he pled guilty to a single charge of a dirty budgie cage. The Ontario SPCA is currently suing this family civilly.

Recently the OSPCA seized horses near Minister Bartolucci's home riding. The farmer attempted suicide. An old sheep farmer came home from shopping to find notices of abandonment on his property. He was intimidated into surrendering his sheep the next day.

There are court rulings with significant charter violations by OSPCA inspectors. Two successfully moved forward. These painful stories must no longer be ignored by the OSPCA or the government. Only transparency and accountability will ensure Ontario's animal welfare system flourishes under Bill 50.

In closing, I have had the privilege of meeting with the OSPCA recently and sincerely hope my speaking here today does not close this door. Ontario SPCA CEO Kate MacDonald and chief inspector Hugh Coghill exhibited great trust and candour. The province has chosen a private charity, the Ontario SPCA, to be the cornerstone of Ontario's animal welfare system.

I have also had the privilege of meeting with both Minister Kwinter and Minister Bartolucci and his staff to discuss the need for legislatively enshrined accountability for the Ontario SPCA. I would like to acknowledge respectfully the amount of work and good intentions that went into drafting Bill 50. Animal welfare is a political minefield, with differing opinions and strong-willed participants at every turn. I commend the minister and his staff.

Five years ago, I resolved to one day stand in the Legislature and tell my story. I resolved to put my efforts towards changing the provincial animal act to legislatively enshrine OSPCA accountability and transparency. I thank you for this opportunity.

The Acting Chair (Mr. David Zimmer): A little more than two minutes per party, starting with Mr. Dunlop.

Mr. Garfield Dunlop: Thank you very much, Ms. Reuter, for your words. We have met in the past a couple of times on this legislation. I commend you for coming forward today. I don't really have any questions for you at this point. I think it's pretty well self-explanatory.

Do you have a presentation for us?

Ms. Sunny Reuter: No. I can e-mail you something.

Mr. Garfield Dunlop: Okay, thank you.

Ms. Cheri DiNovo: Thank you, Ms. Reuter. That was very heartfelt, and I absolutely agree: There needs to be accountability and supervision of OSPCA, and it needs to decide and we need to decide whether it's a charity or a government agency. I really appreciated the suggestion that the Ombudsman have oversight. We're big fans of the Ombudsman. We think that Marin's office does a wonderful job, and this would be an extension of that.

I'm also sorry for your personal loss. I can't imagine what that must be like. To have to deal with that, being pointed at as a kind of criminal, with all the shame it entails, is absolutely unconscionable. You can rest assured that certainly I will do everything possible to

make sure it doesn't happen to somebody else. Thank you, and certainly I would love to have a hard copy of your presentation. I know Mr. Dunlop has said the same, so if we could get that I'd really appreciate it.

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Mr. Mike Colle: Again, Ms. Reuter, I want to say thank you, really, for your passion and your dedication. I think by your commitment you've done a great deal, hopefully, to make this a better piece of legislation. You're really to be congratulated on the courage you've shown and the commitment, because it's not easy to do what you have done over the last five years, so I think you deserve—because what you've done is not only for yourself, obviously. It's for people in Ontario and also for the animals that need protection, so I want to thank you again for that heartfelt passion.

The Acting Chair (Mr. David Zimmer): Thank you, Ms. Reuter. The clerk will speak to you and tell you how to get your presentation into the committee so that it gets distributed to all of the members.

WILLIAM SCHOENHARDT

The Acting Chair (Mr. David Zimmer): William Schoenhardt?

You will have 15 minutes. I'll give you a three-minute warning towards the end. Any time that you don't use will be taken up by committee questions. If you'll identify yourself for the record.

Mr. William Schoenhardt: Good morning. I'm Bill Schoenhardt, basically a private individual who came to indicate some personal things that we are. Nine years ago, I retired from business and moved to a farm north of Georgetown, some 100 acres. So I moved from the urban setting to the rural setting, and in some ways it has been an interesting eye-opener from my urban background and my business background.

We now operate a farm where we grow hay and other crops actively. My wife is the full-time farmer so she's not here. Don't tell her where I am, though, because I should be home working. As well, we operate a dressage training, coaching and boarding facility. Our partner is an international rider competing at the FEI level, which is the international level, the highest level, so she does ride at a high level. She has trained in Germany for a year and a half, university—all of those things.

Over the last nine years, I've come to better understand the rural setting versus the urban, and there is a difference. When we first moved to the country I brought this urban background with me. Some of the little things—these are slices of life, nothing as dramatic as the previous presenter, thank goodness, from being selfish. But barn cats: We look after our barn cats. My wife feeds them, has them vetted, all of that stuff, because the traditional barn cat is—I don't have the word—a rural cat that just wanders. We look after our barn cats. Guess what? They disappear because coyotes eat them. People from the city go, "What? Coyotes?" Yes. They come into the barnyard and nail the cats at night. When I'm indi-

cating that we look after the cats, they have no reason to wander. They're neutered. That's another straightforward subject on the farm. Here I won't bring it in, because of the urban setting. But barn cats do disappear.

You really do need barn cats for rodent control. You have mice. You have rats. The barn across the road was torn down and the rats moved from his barn to our barn. This is another situation. Back in the urban setting, a raccoon or a mouse is a major item. We're talking rats, because there's feed in the barn. Our barn is looked after. I'll joke with you about the dressage fees. It costs you about 1,000 bucks a month to have a horse in our barn. It's looked after. People say it's cleaner than their house. But you still have mice and rats because of the feed when the horses are eating.

Another slice of life, let's call it: groundhogs. They dig holes. If a horse—it doesn't happen often—steps in one of the holes and breaks its leg, effectively you put the horse down. Racehorses, yes, they try to recoup, and you know what the outcome is there.

The other one that I didn't write was possums. We have a hate against possums. I'm going to look you in the eye and say the best possum is a dead possum, because I like you. You're related—but the manure, let's call it, of a possum is poisonous to horses. It creates a nervous disorder which is not treatable, recoverable-treatable, for a horse. So I'm going to tell you right now that if I see a possum, I want to kill it, that type of thing. I remember back in Brampton we were going to tai chi, and somebody had a possum by the side of the road and phoned the SPCA. I'm going, "Will they kill it for me?" This is the difference between rural and urban, and a lot of what I see here tends to be—I'm sorry. In the urban setting where I came from, I was in the toy industry and, Lord, you know, legislation there.

Basically, section 11, in Dr. House's presentation, much more eloquent than mine—lets the inspectors interpret training methods as they see fit. We use whips—and the word is "whips"—on horses, and that's another one, by the way: If you don't ride—I ride as well—the word "whips," and I won't go there either, is the word we use. We use lunge whips to lunge a horse. They're used in normal training, in coaching, in riding. I'm going to say that by the inexperienced or untrained inspector it can be interpreted as causing distress, because in some ways, for a horse to learn, you put it through some distress. At times you will draw blood with the whip, not intentionally but inadvertently.

Then you have people, friends of the people who board horses and that, visiting the farm. If they make a complaint or if an inspector comes in, you have the experience of a trained equestrian person, university-educated at the University of Guelph, a year and a half in Germany, versus an untrained, inexperienced inspector who has, though, the authority of a police officer. So we look at all of this section 11 and, lo and behold—I'd be the type of person, I'll tell you right now, who would order them off the farm, and you'll charge me with criminal offences. I just get tired of this, "They know

best," when they don't have the experience but they have the authority.

In a nutshell, in essence, that's section 11—I knew I wasn't going to go to my 15 minutes, and you folks will get off early for lunch—as presented by Dr. House and others. That ends my short presentation. Any questions?

The Acting Chair (Mr. David Zimmer): We have about three minutes per caucus, starting with Ms. DiNovo.

Ms. Cheri DiNovo: Thank you for coming and deputing and for detailing the difference, and it's true that we're pretty urban here. We heard part of your presentation before, as you've alluded to, and I'm sure you wouldn't be in favour of warrantless search and seizure, and I'm not sure that the federal Criminal Code would be either.

Under section 11, which is a bizarrely worded little section anyway, it does say, "activities carried on in accordance with reasonable and generally accepted practices of agricultural animal care, management or husbandry," and then it goes on to say "a prescribed class of animals or animals living in prescribed circumstances"—it doesn't say what those are. One might assume, and obviously it needs to be better written, that that might include horses, for example, and certainly farm animals. We've heard other deputations around that. In your opinion, this isn't good enough?

Mr. William Schoenhardt: That's correct; yes.

Ms. Cheri DiNovo: Okay. Just for the record. Thank you.

The Acting Chair (Mr. David Zimmer): Mr. Levac.

Mr. Dave Levac: Thank you very much, Mr. Schoenhardt, for coming in and sharing the two pieces of your education regarding urban and rural. It's funny that you bring that particular item up as barn cats, because we did have a discussion around that, and I'm familiar with barn cats, recognizing that the inspectors are looking at barn cats in understanding the value of what they bring on the case—

Mr. William Schoenhardt: Ironically, our local Upper Credit Humane Society will not give us a cat for a barn cat. They have excess cats coming out of their yin-yang; they will not accept more cats. If we ask for a cat and we say it's a barn cat, they will not give us one.

Mr. Dave Levac: Most barn cats are capable of making sure the numbers are pretty high if taken care of in a natural process that you've described: the coyotes and the natural system. You described in detail some of the experiences—did you go through those experiences with care of horses and an inspector coming in to give you a hard—

Mr. William Schoenhardt: No, I did not. I'm saying that under this act it could happen.

1230

Mr. Dave Levac: It could happen. Okay.

Under the circumstances, would there also be recognition that the inspector might be looking and knowing what they're seeing, as opposed to what the assumption is?

Mr. William Schoenhardt: There could be, yes. I would be pleasantly surprised to find out that they had experience; that's correct. But I know from our trainer's point of view, interacting with her, the level at the national training levels, which is what she is capable of and what she is doing, is much different than the normal "knock-down lessons."

Mr. Dave Levac: Not many people would have been exposed to the level that you're talking about.

Mr. William Schoenhardt: That's correct.

Mr. Dave Levac: Quite frankly, thank you for supporting and talking about section 11. We indicated earlier that these types of recommendations will be listened to carefully by the government. I suspect that we might be getting some amendments from the opposition as well to deal with some of these issues.

The Acting Chair (Mr. David Zimmer): Mr. Dunlop?

Mr. Garfield Dunlop: I'd say, only about 100 amendments so far.

I did want to comment on something along the lines of what Mr. Levac had just mentioned about your differentiating rural and urban Ontario. I quite often think that we lose that at Queen's Park. I brought up the case a while ago with Dr. House about hunting with a beagle or whatever it may be and then someone coming across and actually having a charge. In your statement, I think you mentioned horseback riding and that sometimes you might inadvertently draw blood on a horse when it's whipped.

Mr. William Schoenhardt: I have seen it happen.

Mr. Garfield Dunlop: Those are the kinds of concerns I have with this bill. What will the impact be on rural Ontario and on things like agriculture, on hunting and angling? If we just go through the whole lifestyle we live in rural Ontario, what could the impact be in the end? I think you, along with Dr. House, have brought some very, very positive things forward in the fact that you've brought it to our attention. We hope, in the end, there are a number—not only the warrantless entry and section 6, but section 11 also needs some major amendments to get this bill right.

We look forward to the recommendations you're making today and all the deputants who are here giving us good, positive feedback.

The Acting Chair (Mr. David Zimmer): Thank you very much for your presentation and taking the time to come in.

TORONTO HUMANE SOCIETY

The Acting Chair (Mr. David Zimmer): The Toronto Humane Society, Mr. Tim Trow.

You'll have 15 minutes. I'll give you a three-minute warning. You can leave whatever time you want toward the end of your presentation for questions. Please introduce yourself for the record.

Mr. Tim Trow: I'm Tim Trow. I'm the volunteer president of the Toronto Humane Society.

I have a package here—I hope everyone received a copy—with some material and some background about the Toronto Humane Society, and I have a very brief, formal written set of comments in there.

We appreciate very much the opportunity to be here and to talk to you about Bill 50. In our package, we have some background material in which we discuss our concerns, which we gave to Grant Thornton when they investigated the Ontario SPCA for Minister Kwinter. We certainly support a lot of the accountability and other issues involved with the OSPCA, but today we've limited our comments to Bill 50, section 6. We're extremely concerned about this section.

In that regard, I'd like to just point out to you our statistics, which is the second document in our material. It's a colourful blue document. I'd like to tell you how proud we are of these and what wonderful statistics they are, given the difficulties that pounds and shelters and other people who care for animals in the public domain face. We work terribly hard to produce these kinds of figures—thousands and thousands of animals, all of which arrive frightened and terrified; most arrive sick and in very bad shape. When you see the incredible job that we do in taking these thousands and thousands of animals and finding so many homes for them—our current euthanasia rate right now, for animals that come in to be euthanized from folks who can't afford to have their own vet do it, is about 4% for cats and about 2% for dogs. The euthanasia rate in the city of Toronto pounds is over 50%.

I want you to know how hard we work at the Toronto Humane Society to help animals and really to laud the people who are there, who manage the shelter and supervise the folks who actually care for the animals. I've asked them to come in. I wondered if it was appropriate for me to ask them to stand and allow me to introduce them. They're sitting over there. Folks, if you could stand up, these are the shelter supervisors at the Toronto Humane Society: their boss, Vijay Kumar, in the doorway; the operations manager, Gary McCracken; there's Derrock Martindale to my right; then Liz Anderson, Will Robinson, Shannon Caulfield, Jhia Humayun, Glenda Neatt, Shazwar Ahmadarahman and Surrinder Birdi. I've left out Bernard Bignall in the back corner. That's really why I'm here.

I'm also here with Joan Milne, in the front row, who's our vice-president. We're both here for the same reason: Section 6 of Bill 50 gives us great concern for the future. These are the future, ladies and gentlemen; these are the young people who have special skills with animals, who have had the courage to go into the public area of animal care. A lot of them have training in animal care arts—in caring for animals, in veterinary clinics, in dog husbandry. Bernard is an expert in health and safety. He's hiding in the corner, but he's very large; it's hard for him to hide. In the past few months, Bernard got the society the highest accreditation you can get for health and safety in the past few months. I don't know how to impress upon you what an amazing achievement that is with so

many frightened and terrified animals. It just goes to show the quality of care.

Joan and I are here. There are a few other board members here, Valerie Jones and Gino Innamorato, and a member of our volunteer committee, Anand Thansingh. If they would like to stand up. We're all here because we're concerned about the future and the wonderful things that folks like these can do in the future.

We believe that section 6 will have two effects on us. We don't see how it can be avoided by changing it or tinkering with it. We believe that initially, and I think almost forever, because we're so well known—we were the first organization in Canada to use the words "humane society." Every other animal welfare group chose the words "society for the prevention of cruelty to animals."

We're known across the province as the humane society that has the hospital; I believe we're the only humane society with a hospital. We employ 10 veterinarians and nurses. We have a very large operation. About a third of the people we help at the Toronto Humane Society aren't from our territory at all; they're from across the province. People have come to us in the past six months—I checked—from all of your ridings, including down in Ottawa. We help people without any question, without any means test. We help people adopt animals by helping them with their veterinary care—spaying and neutering them. We microchip animals for them. We're very concerned that people won't be able to find our services when we no longer have our name. We've had our name for 121 years. What other name will be left to us?

The other thing that we're very concerned about is our fundraising, because our fundraising is based on that 121 years of community service—people knowing that we provide this kind of a dedicated and humane care source—and name recognition. That's how you raise money: name recognition. We think that our revenue would plummet.

The minister and others have said that the reason section 6 is in the bill is because of potential confusion and a potential fraud. I can't imagine that anyone believes fraud in the context of the Toronto Humane Society. If we were going to do it, we would have done it in the last 121 years. Confusion? We're not aware of any evidence of confusion even at this point, let alone in the future. Why would there be confusion? If we were to leave the Ontario SPCA, which is when the bill would kick in, we wouldn't be carrying out any government program; we wouldn't be doing policing. There'd be nothing that could confuse people. Surely, no one would suggest that we'd put on a uniform and walk around saying that we were someone we weren't. I just think the fears—we can't support them, and neither could Grant Thornton, by the way. Minister Kwinter, in 2004 and 2006, commissioned two quite extensive and expensive studies of the Ontario SPCA, and my submission to that body of investigators is in the material. They reported no issues of confusion or fraud as regards the integrity and the running of the Ontario SPCA itself and its policing.

1240

Quite frankly, we can see no reason for section 6. We think it's superfluous to the animal protection provisions. Fines for people who are cruel, abilities of investigators to do their jobs—how can this have anything to do with that? It's just superfluous. It can go. I don't think that it affects in any way the scheme of this bill. Section 10 must go, of course, but I don't think the loss of section 10 is any great loss either. It actually outlaws some current organizations, which is silly because they exist anyway. There are 235 Ontario animal welfare organizations registered in Ottawa as charities, and there are many, many others. There is even an animal political party that ran a candidate in Ottawa last time. So I honestly don't think that we weaken the bill by asking you to support removing section 6 from it.

The Acting Chair (Mr. David Zimmer): Thank you. We have about two and a half minutes per caucus, starting with the Liberal caucus.

Mr. Dave Levac: Thank you very much for your presentation, Mr. Trow, and the concern that you've expressed. You may not have been in the room when I mentioned it earlier, listening to the people regarding section 6—there will be some amendments offered by the government to ensure that the name issue is dealt with immediately.

Number two, I want to clearly tell you that the government, in my understanding and my questions and briefings, did not and will not make accusations that the Toronto Humane Society was acting in fraud. Their comment, based on people who have gone door to door posing as either the SPCA or the Toronto Humane Society or any humane society, was to avoid that type of fraud. We wanted to make sure that those terminologies are protected, so that in the amendment, what we're going to end up doing is ensuring that we can still deal with the fraud that could be taking place. I can attest to you that it's happened to me at my own house, where somebody showed up at the door and said that they were from the SPCA—and finding out that they were not—trying to raise money from me because they knew I had a dog and I was an animal lover.

Another comment or question: I do understand the concern of 121 years' worth of marketing and labelling. You're aware of the court case with WWF, when the World Wildlife Fund took the wrestling people to court. The wrestlers used the same argument, which said, "Our brand is going to go down. We're going to lose." Well, because Vince McMahon is as good as he is, the WWE is thriving and doing well. But that's only a sidebar, because we will be dealing with an amendment to number 6.

Mr. Tim Trow: He's not raising money, sir.

Mr. Dave Levac: Oh, he raises a lot of money.

Mr. Tim Trow: He's charging—he's making a lot of money.

May I talk about the fraud, because—

The Acting Chair (Mr. David Zimmer): Sorry. That's about two and a half minutes. We have to move to Mr. Dunlop.

Mr. Garfield Dunlop: Thank you very much for your presentation, Mr. Trow. First of all, I want to compliment the Toronto Humane Society on the chart you've provided us with today—dropping down to just 6% under euthanasia in 2007, when in 2001 it was 27%. That's substantial. It's a great decrease, so I want to compliment you on that.

I wanted to ask you: Does your organization receive any provincial money or any municipal money to help you succeed?

Mr. Tim Trow: Not a cent. We have no grants, no operating subsidies whatsoever. A hundred per cent of what we use to help animals we raise ourselves.

One of the most unfortunate things about the current OSPCA Act is that that act gives the Ontario SPCA freedom and exclusion from municipal taxation, and it denies it to all other humane societies. It's not part of my presentation, but, boy, I don't see why it shouldn't be equal for us all. We pay an awful lot of taxes in Toronto, and it sure would be nice to spend that on medical care and helping people in the community keep their animals.

There's a terrible incident going on as we're here today, out on the Danforth, where people have been forced from an enormous apartment building because of a terrible fire that may have toxicity. Our investigators are on the scene right now and people can't get in, because, of course, it's dangerous to go in. We're sheltering dozens and dozens of animals, and we're taking food and helping people. You don't know how sad it is for some of these people to have to come out with a cat in their arms in the middle of the night or, even worse, leave them behind. This is the kind of thing that we do all the time, and we do it entirely on the money people in the community dig deep from their pockets.

Ms. Cheri DiNovo: Thank you, Mr. Trow, in particular for the campaign. I've received hundreds of e-mails now about removing section 6. I hate to be cynical, but I'm a politician. I think that's why you're hearing some good things from the government side.

Quite frankly, there's no place for section 6 in this bill. That's the opinion of the New Democratic Party. Fraud is a complete smokescreen. Fraud is covered by the Criminal Code already, so you can't fraudulently use the name of somebody else. This is a turf warfare section, because the government was coming down on the side of the OSPCA and against humane societies. It's about money; we all know it's about money. It's about the capability of the Toronto Humane Society and other humane societies to raise money. The OSPCA wants that turf. That's what section 6 is about. The only reasonable amendment for section 6 is to completely take it out. That's what we'll be fighting for. Certainly, we know that this section is not about the four-legged, the finned or the winged; it's about the two-legged animals out there and what they want.

Suffice to say, thank you so much for the work that you do in humane societies across this country, particularly the Toronto Humane Society. Thank you also for galvanizing the public campaign, which is hopefully going to get rid of section 6.

The Acting Chair (Mr. David Zimmer): Thank you very much, Mr. Trow.

Mr. Tim Trow: Sir, may I just respond to the gentleman on the fraud issue, just one sentence?

The Acting Chair (Mr. David Zimmer): Take a half-minute.

Mr. Tim Trow: I want to say that of course I wasn't suggesting that you were suggesting we were frauds. My point was that section 6 will apply to humane societies, not to other groups, not to these folks you're talking about. There are those kinds of groups with hockey teams and every other thing. This will apply to humane societies from 30 communities across the province, all of whom are like us—all of whom were built from scratch by the community, all of whom are above reproach, all of whom are managed by volunteer boards from the community.

Mr. Dave Levac: Better reread your first page.

Mr. Tim Trow: Better reread it, then. I'm not a great scholar. Thank you, sir.

The Acting Chair (Mr. David Zimmer): Thank you very much for taking the time to present. That concludes the morning hearings. We'll reconvene at 2 o'clock.

The committee recessed from 1248 to 1401.

BURR FOUNDATION

The Acting Chair (Mr. David Zimmer): Welcome to the afternoon session. We're going to start with Michael O'Sullivan from the Burr Foundation.

You have 15 minutes. I'll give you a three-minute warning, and you can leave whatever time you want for questions at the end of your presentation.

Mr. Michael O'Sullivan: Robert and Anne Burr send their regrets. They're the foundation I'm representing. The other people who sit on the board also have extensive experience in animal protection. One of them served as the chief executive officer of the BC SPCA for 17 years and has worked in animal protection for 25 years. Robert Burr served on the board of directors of the Ontario Humane Society, chaired a number of committees, was an OHS inspector, and also worked and ran the Oakville Humane Society.

The ground I'm going to cover is fresh ground. I'm not going to repeat what I said earlier today.

I did have a couple of observations. As we said originally, we believe that self-governing bodies have an inherent conflict of interest. I've heard suggestions that more people should be added to the Animal Care Review Board. We would respectfully suggest that in fact the Animal Care Review Board be phased out and replaced with a court process. I think we're underestimating the ability of the courts to deal with matters. They deal with hundreds, if not thousands, of issues from a wide range of problems that face society, and I think they're eminently capable. To have either the OSPCA or other special-interest groups reviewing cases which could result in criminal charges, I think, is an inherent conflict of interest and should not happen.

I did say earlier, too, that I believe the OSPCA should continue its function but not under the current mechanisms or the way it's structured. As many of you know, at a federal level, the Corporations Act is going to be amended and a new section struck to deal specifically with charities. The provincial government is also following suit, and it will in fact require all charities to reapply for their corporate papers under that act.

Our recommendation is that the OSPCA be split into two functions, one which is a law enforcement unit that reports directly to the minister, the same way any other police force does, with all of the inherent mechanisms and fail-safes; and secondly, that the OSPCA be able to carry on its good charitable work to help animals, shelter animals, education, legislative proposals and so forth. That would eliminate some of the conflicts of interest that you've heard today.

I listened very carefully to the presentation from the Canadian Association of Zoos and Aquariums. I'm not sure if they're still here or not, but one recommendation I have would be that if they say that their voluntary standards are superior to what this bill proposes, perhaps the committee and the Legislature could take a look at their standards and incorporate them into the regulations, and the fail-safe would be that failure to follow those regulations would result in attendant penalties.

I'm aware that the OSPCA has been investigated by the Attorney General's office, the Solicitor General's office and the Ontario Public Guardian and Trustee seven to eight times combined. I refreshed my memory with a 1982 report that was written, and regrettably, although it had good suggestions, 26 years later many of its recommendations have still not been implemented.

This legislation is critical because it not only gives us a chance to look at legislation that has not been amended in 53 years, but perhaps even more significantly, it's going to chart the progress of animal protection for the next 20 or 30 years to come. So I think everyone would agree that it's very important that we get it right.

Mr. Trow mentioned the inherent unfairness with the property tax relief, and I'd like to amplify that. Our charity, along with any of the other 600 groups that are operating throughout the province, whether they're incorporated or not, doesn't receive any tax dollars. We didn't receive any of the \$7 million that you've already given to the OSPCA, and any of us that have property still have to pay taxes. We would respectfully suggest that unless you're prepared to grant those types of exemptions to any registered charity working to help animals, the Ontario SPCA not be given that special privilege. It's prejudicial and it's unfair.

With respect to section 10, we're very concerned about it, as we said earlier. Perhaps even more disconcerting is that there has been a great deal of public controversy around this entire piece of legislation, there has been tremendous debate during first and second readings by the MPPs concerning the legislation, and when any reference is made to any part of it, in particular to section 10, the OSPCA is missing in action. No one

has heard anything and no one has seen anything on their website. As far as we know, no one has received any communications from them. In our respectful view, that just makes things worse. If in fact it's not their intention to misuse this authority, then why haven't they come out and said that they are not going to?

Again, there's an even more important issue at stake here with respect to the reputations of organizations. This bill has not only been formulated over a period of a couple of years, but it's had second reading, so they've already been able to convince the Legislature that other groups are somehow doing something wrong, and that's also going to be a public perception. So if you move forward and you remove people's names, you're going to completely cut the legs out from underneath them with respect to reputation and goodwill. They are not going to be effectively able to disagree with government policies or with the policies of other groups that could be harmful to animals. More importantly, you'll tell the public that in their eyes, the reason why they lost their name and their identity was because they did something wrong. None of us has done anything wrong except disagree.

We also believe, as I said earlier, that you need better training for the inspectors. Again, I would call on specialists like the Canadian association of zoos, parks and aquaria. If they say their inspectors are better trained than OSPCA inspectors, then maybe they could be enlisted to train OSPCA inspectors. Again, I have to repeat myself, I guess: In a perfect world, everything would be voluntary, but that's not the world that we live in. In my opinion, self-regulation by any body, including humane societies, is a recipe for disaster.

About seven weeks ago, I went to the OSPCA headquarters in Newmarket. I didn't have an appointment, and so the chief executive officer was not able to see me. I asked for a copy of their bylaws, and after a lot of to-ing and fro-ing, I was told that the bylaws were secret and I was not allowed to look at them. We could not find them anywhere through Industry Canada, through the corporations branch, or through any searches that we did. I heard someone describe some groups as "private charities." There is no such thing as a private charity; they're a public charity. You can't be a public charity and a public police force and, when you're asked questions by people, say, "That's secret. You're not allowed to know."

When we asked how we could become a member society or apply, I was shown a piece of paper for an individual membership, which would have required me to sign a legally binding affidavit that, sight unseen, we agreed with their bylaws now and forever and would agree to uphold them. You can't ask someone to do that. It's impossible.

Other concerns we have: There obviously are a lot of stakeholders. We reiterate that we think there should be much broader public consultations, and we would respectfully urge the committee that when the Legislature reconvenes, this not be put to a third reading, that there be six to eight months of public consultations. We know that the committee put an ad in the newspaper in North

Bay, London and Ottawa; we think it ought to go into more places than that. There were only five and a half days' notice given as a deadline before people could respond, and of course we're in the middle of summer vacations. I suspect there are a lot of people who would like to appear before the committee or would like to make submissions, and they simply don't know about the opportunity.

That concludes my presentation. I'd be glad to answer any questions you might have.

1410

The Acting Chair (Mr. David Zimmer): We have about two and a half minutes per party, starting with Mr. Dunlop.

Mr. Garfield Dunlop: Thank you very much once again for your presentation. I think you sum it up in a fairly accurate way. I'm hearing the same thing that you've actually mentioned here today, like the consultations. Even when the bill was introduced, this briefing note came out from the ministry and said that all this consultation had taken place, and yet when we checked with the organizations that were mentioned, virtually no consultation had taken place. I'm with you on this and I hope the government will listen to some of these concerns, because I think that when we get to third reading we're going to have some people very disappointed in the outcome in light of the fact that I don't expect the government will make a lot of amendments, because they've got a majority here at the committee hearings. But I hope they'll listen because, as we look at all the organizations across the province that have some real concerns about the warrantless entry and things like that, I think we're going to find even more of the kinds of concerns you've brought forward today. So I'm with you on that and I really appreciate your support.

Mr. Michael O'Sullivan: Thank you. I can't say enough—again, I think the intentions are good. I think there has been some very self-interested and bad advice and I'm hoping that people will sit back.

One of the conflicts of interest I spoke about is that the chief inspector is the chief police officer. He, right now, has an agent sitting on his board of directors. Imagine Julian Fantino showing up at an Ontario police commission meeting and finding out that a constable who reports to him sits on the board and is his boss. You can't have that kind of a mechanism because it's a recipe for disaster.

Mr. Garfield Dunlop: If we're going to pass this legislation, let's get it right.

Mr. Michael O'Sullivan: I think, again—

The Acting Chair (Mr. David Zimmer): Thank you. Ms. DiNovo.

Ms. Cheri DiNovo: Thank you again, Mr. O'Sullivan. Of course, I just want to reiterate that I'm in perfect agreement with what you've had to say.

You had begun to answer in the last round one of the concerns of Mr. Levac. I would cede some of my time so that you could continue on; you were lopped off there. He had said that section 6 was there to prevent fraud:

somebody coming to your door, impersonating an SPCA or a humane society. I suggested that fraud is covered by the Criminal Code already. But you were about to say something further to that, and I'm wondering if you could just continue.

Mr. Michael O'Sullivan: Absolutely correct. There are already sufficient mechanisms to deal with that issue: the Competition Bureau, consumer affairs, the newspapers, the police. The suggestion that use of the name "humane society" or "SPCA" is anything less than about money, power and politics is just simply not the case.

For 53 years, the Ontario Humane Society failed to enforce the current section 6, which goes even further and says that any group, meaning any two people, incorporated or unincorporated, right now who profess to say they're working for the welfare of animals have to become a member of the OSPCA and agree with them. The section has never been enforced and right now there are 600 groups in the province that are in violation of the law, by looking at it. This again, by amending it, would hone in—it's about fundraising competition. It has nothing to do with animal welfare or fraud.

Finally, I was threatened with the section of the act that exists now when I ran the Windsor/Essex County Humane Society, because we were not affiliated with the OHS. We deliberately disaffiliated with them because there was a great deal of dysfunction at work. They threatened to use this section and I said, "Fine, let's go to court and sort this out once and for all." And they never made good on the threat. So they're coming to you asking for something they can't get any other way because no one is going to listen to them because it's absolute nonsense.

The Acting Chair (Mr. David Zimmer): Thank you.

Mr. Dave Levac: Mr. O'Sullivan, this afternoon's deputation was on behalf of the Burr Foundation?

Mr. Michael O'Sullivan: That's correct.

Mr. Dave Levac: And you're a member of the Burr Foundation.

Mr. Michael O'Sullivan: I'm a director on the board.

Mr. Dave Levac: A director on the board of the foundation, and Robert couldn't be with us.

Mr. Michael O'Sullivan: That's correct.

Mr. Dave Levac: And everything that you've said, including previously said, is believed by the Burr Foundation to be words of—

Mr. Michael O'Sullivan: The remarks I made earlier were on behalf of the Humane Society of Canada; the remarks I made this afternoon I cleared with the Burr Foundation.

Mr. Dave Levac: Okay, thank you. I just wanted to make sure that people who see you twice understand why we're doing this—

Mr. Michael O'Sullivan: Absolutely. As I mentioned in my presentation, Robert and Anne have worked in animal welfare for 40 years, and Robert actually sat on the board of the OSPCA, was an OSPCA inspector and ran the Oakville humane society, which is an affiliate, and worked for the Toronto Humane Society, and

actually founded and sat on the board of the Upper Credit Humane Society, which is also an affiliate. So he's very well versed in these matters.

Mr. Dave Levac: Thanks for that clarification. That's an important thing to do for people when they hear the same deputant make two presentations.

Mr. Michael O'Sullivan: I appreciate that.

Mr. Dave Levac: The points you continue to make are—I want to make sure I get this right—that you believe there's an inability of the OSPCA to fulfill their mandate by their training or by their action for power. Am I getting this right?

Mr. Michael O'Sullivan: What I'm saying is that I think the OSPCA should continue with its work. But after observing them closely and working with them for 40 years, they can't do it under the current mechanisms by which they operate. It's not fair to them, it's not fair to the public and it's not fair to animals.

Mr. Dave Levac: And then, by extension, it's one of power and money.

Mr. Michael O'Sullivan: In terms of the use of the name, absolutely.

The Acting Chair (Mr. David Zimmer): Thank you very much for appearing before the committee today.

Kurt Suss?

RICHARD HERVIEUX

The Acting Chair (Mr. David Zimmer): Richard Hervieux?

Mr. Hervieux, I understand from the clerk that because of a disability you would rather have someone else read your presentation. Is that correct?

Mr. Richard Hervieux: Right.

The Acting Chair (Mr. David Zimmer): Is that person here today?

Mr. Richard Hervieux: Yes, my wife. But she also has one to read. Is that all right?

The Acting Chair (Mr. David Zimmer): Are they the same?

Mr. Richard Hervieux: No, a different one.

Ms. Colleen Hervieux: I have my own presentation.

The Acting Chair (Mr. David Zimmer): All right.

Would you identify yourself for the record?

Ms. Colleen Hervieux: My name is Colleen Hervieux.

The Acting Chair (Mr. David Zimmer): You have 15 minutes. I'll give you a three-minute warning. Any time that you don't use will be used by the committee for questions.

Mr. Mike Colle: On a point of order, Mr. Chair: Colleen and Richard are from the same family. Is it possible that we could combine them? You want it different? Okay.

Ms. Colleen Hervieux: They're totally different.

The Acting Chair (Mr. David Zimmer): Yes. The clerk canvassed that earlier. They're different submissions, I understand.

Mr. Mike Colle: That's fine.

The Acting Chair (Mr. David Zimmer): Go ahead.

Ms. Colleen Hervieux: "My name is Richard Hervieux. I am a 55-year-old disabled person. I have had five major back surgeries, which means I am limited in what I can do. I also suffer from depression and anxiety attacks. I take great pride in the fact that I can work with and understand animals. I know what it is like to live in distress, therefore I treat my animals to the best that I can offer. We also have a feed and country farm store which my wife and children run.

"At this time I would like to talk about my life in northern Ontario. We bought five acres of land in 1996. Since this time we have rescued more than 60 horses from certain death. We have taken the horses from many different situations and have given them a second chance at life. One of the horses that we saved was kicked in the head by a stallion, and the jaw, although healed, give it a huge setback in its ability to grow. After a period of time it has grown to be a trusting, well-mannered horse who loves to get attention. This horse was well trained in many different ways.

Another situation that comes to mind is that a pony was dropped off at our place the morning of a visit from the OSPCA. They would not listen to any part of what we were saying. They just wanted us to hear what they were saying. This pony had extremely long hooves which were in need to be trimmed. We only had this pony about an hour and we told them we would get the hooves tended to as soon as possible. I, along with my daughter, have worked with all of these horses.

"In the summer of 2007, my life as I knew it would change forever. The OSPCA entered our home and business with a search warrant in hand. When they did not find what they were looking for, they went to our other property, for which they did not have a warrant, and removed most of our horses. At this time I was stripped of all my rights and treated as a criminal. I was even put into a police car because I was so upset and I wanted answers to why they were removing my horses. This meant that I was no longer there to support my family.

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"They even removed two horses that did not belong to us, yet we were told that if we co-operated, they would return these horses to the owner, which they never did. To this day, they have never contacted the owner of the horses. As for our horses, we had to surrender them to the OSPCA because after two months we could not afford the bill. So in October 2007, we hand-delivered a letter to their head office in Newmarket asking them to keep the 10 horses in lieu of the bill. Three weeks later, we got a letter back stating that we should get ourselves a lawyer because they were not going to take our horses, and by then they estimated that we would owe \$18,000. By December 2007, the OSPCA sent our lawyer a letter saying that the amount owing was increasing and we would now need to surrender our horses so that they could be sold to recover some of the high boarding costs, which by then had reached more than \$25,000.

"In my mind, this is extortion. To this date, they have sold or given away seven of the 10 horses, and three of them they still have. None of my family has been charged with any criminal charges, so how can we owe such a large amount of money? I call this extortion by stealing my animals.

"A couple of weeks after the removal of my horses, their senior inspector had come to my home and told me that if I ever wanted to see my horses again, I was going about it in the wrong way. Going in front of the Animal Care Review Board was the wrong way. This sent me into a deep depression so bad that I attempted suicide by taking my morphine pills. I was then arrested and brought by ambulance to the hospital. I was kept there for about a week and then released. The next few months were very hard for me emotionally. I struggled with losing my horses, with the thought of letting my family down and a system that greatly failed me. I feel that I was intimidated by the misuse of their police powers. Their extortion has left me in a great financial struggle and I feel I can no longer provide for my family.

"There are a number of other people in the north who face the same situation as my family, but they are either too afraid to speak out about their experience or could not make the expensive trip to the south.

"When the OSPCA acts with police powers based on a third party vendetta, this is wrong. When the OSPCA does not use the same set of standards throughout the province, then I think it would be a big mistake to even think of passing such a powerful bill as Bill 50. I think the OSPCA should have someone to govern over the society to make them accountable for what they do before they are given any more police powers or warrantless entry to any property, whether it is private or public. I also think that if this bill is even considered to be passed, then the Ontario Society for the Prevention of Cruelty to Animals should at least have a veterinarian as their chief inspector or more training than they currently have. There is a lack of knowledge when it comes to different breed requirements among different animals.

"I leave you with one last thought: Have you even thought about the animals in our national parks, such as Algonquin? Who is responsible for the care of these animals? The last time I checked, it was the Ministry of Natural Resources. Does this mean they will need to answer to the OSPCA?

"Thank you for your time and for allowing me to speak.

"Richard Hervieux."

The Acting Chair (Mr. David Zimmer): Thank you. We have almost three minutes per party, starting with Ms. DiNovo.

Ms. Cheri DiNovo: Thank you very much, Richard, for the submission. We too in the New Democratic Party are very concerned about these extraordinary powers being given to the OSPCA, and I just want to say that we feel for what you've been through and certainly we're here to work to see that doesn't happen. Thank you very much for deputing.

The Acting Chair (Mr. David Zimmer): Mr. Levac.

Mr. Dave Levac: Richard, just a question that I have regarding the comment at the end about the MNR and the SPCA. You're aware that jurisdictions between each of those are taken to a certain point and then the power is above the guidelines. For instance, for farm animals, if those are not cared for within the codes that are already in existence, that's the only time that the SPCA—

Mr. Richard Hervieux: But they have their own codes.

Mr. Dave Levac: Yes, and if those codes are broken, that's the only time the SPCA is allowed to—

Mr. Richard Hervieux: But the SPCA—we have guidelines, too, that you guys set up, for farmers, and papers—

Mr. Dave Levac: Yes.

Mr. Richard Hervieux: I get them at the Kitchener sale. They make their own rules up as they go. They do not follow the Ontario guidelines at all.

Mr. Dave Levac: And if they don't, that's when the SPCA comes in.

Mr. Richard Hervieux: No, it's the SPCA that does this.

Mr. Dave Levac: Oh, the SPCA.

Mr. Richard Hervieux: Yes. They tried to nickel-and-dime me. I put in a new shelter for the horses, what they wanted. I put in water bowls, what they wanted. All of a sudden, they said, "We don't like this. We'd like to see heated water bowls." So they try to nickel-and-dime you so you can't go to court or fight them.

I buy some of these animals from Kitchener-Waterloo sales. They pass at the sales barn from the SPCA, but when I get them home, they do not pass. Why are there double standards?

Why is it that an inspector can come to my house—I had a Limousin cow and a Charolais calf. On the reports I got, they called my Limousin cow, a purebred Limousin cow, a Hereford. So they didn't know the difference between these farm animals. And they said that the Charolais was its baby, which it could not be. It's a pure Charolais. They did not know the difference at all between these animals.

I mentioned one time to the Ontario inspector—he came in; he had a symbol on his jacket and it wasn't the SPCA. The SPCA guy walked right by a horse and the hooves were about that long. I mentioned to one of the Ontario guys, "You see what I mean? He's walking by this, and he should be checking on this," because that is the cruelty right there. You know what? I got a letter within three weeks—not even three weeks—stating that if I didn't quit talking bad about the SPCA, I would get sued by the SPCA.

The Acting Chair (Mr. David Zimmer): Thank you very much. We'll move to Mr. Dunlop.

Mr. Garfield Dunlop: Richard, I want to thank you for having the courage to come today and tell your story. There's been a few of these other stories floating around, and you know what? I don't think there's a person in this province who wants to cause any distress to animals.

Mr. Richard Hervieux: No, I do not. I think they want money. That's all they want.

Mr. Garfield Dunlop: In the end, all we're saying is, let's get this legislation right. As we move through this process and we're having these kinds of concerns come forward—obviously, there are a few of them, because we've had a lot of recommendations here from the 10 or 12 people we've met with so far. I don't really have any questions for you. I just wanted to thank you for taking the time out of your schedule and for having the courage to come here. I know it's an intimidating place at times. Congratulations for having that courage.

The Acting Chair (Mr. David Zimmer): Thank you for your presentation and for coming in to the Legislature today.

ONTARIO FEDERATION OF AGRICULTURE

The Acting Chair (Mr. David Zimmer): The Ontario Federation of Agriculture, Peter Jeffery.

So, 15 minutes, and I'll give you a three-minute warning. You can leave whatever time you want at the end of your presentation for questions, which the members may or may not ask.

Ms. Wendy Omvlee: I'm not Peter Jeffery. My name is Wendy Omvlee.

The Acting Chair (Mr. David Zimmer): For the record, could you introduce yourself.

Mr. Peter Jeffery: I'm Peter Jeffery.

The Acting Chair (Mr. David Zimmer): The floor is yours.

Ms. Wendy Omvlee: Good afternoon. My name is Wendy Omvlee, and my husband and I operate a 500-head dairy goat farm in Haldimand county. As well, I'm a member of the Ontario Federation of Agriculture's executive committee.

The Ontario Federation of Agriculture is the voice of Ontario's farmers, supported by approximately 38,000 individual farm family members and 30 affiliated organizations. The OFA represents farm family concerns to governments and the general public. The OFA is active at the local level through 51 county and regional federations of agriculture, the farmers' voice on national issues.

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Although we have a total of 20 recommendations for amendments and changes to the Provincial Animal Welfare Act in our submission, I'll emphasize three: the need for amendments to ensure oversight and accountability for SPCAs, our fundamental opposition to searches without a warrant, and the use of established livestock codes of practice in place of standards of care for farmed animals.

We've provided the committee clerk with copies of our submission; I trust that you will read it carefully.

I now will take any questions that you may have.

The Acting Chair (Mr. David Zimmer): We've got about 13 minutes. We will start this round with Mr. Levac.

Mr. Dave Levac: I appreciate the opportunity to ask a couple of questions. I didn't get a chance to read the entire brief; I'm just getting to it now so that I can ask the questions. I just want to know, off the top, if you're aware that we're expressing that an exemption be provided and that the codes that are established—the only time there would be an intervention from the OSPCA would be that if those codes were broken, they go beyond the code, so that our hands are not there going into agriculture. You're aware of that in terms of this bill?

Mr. Peter Jeffery: We don't believe it really says that. It says that agriculture is excepted, not exempt, and it doesn't specifically refer to the existing codes of practice for agricultural animal care that are in existence. It refers to standards of care, but it doesn't specify the specific livestock codes of practice that have been in place and developed by experts in the animal agriculture field, humane society personnel etc.

Mr. Dave Levac: So the concern is that it's not specific enough to maintain the distance between the OSPCA moving in on a farm operation—you would normally do something with cattle or you would normally do something with sheep or whatever under common practice, and that only if there were practices done to animals that would go beyond that is when the SPCA would be called in. You're looking for more specific denotation of the practices?

Mr. Peter Jeffery: We're looking for recognition of those existing codes of practice.

The other thing is that the SPCA inspectors tend to operate on a complaint-driven process. They do receive anonymous complaints and are obligated to follow through on them, but that doesn't mean that the complaints, at the end of the day, have any veracity.

Mr. Dave Levac: As I said, I need some more time to go over the recommendations, but I would suggest to you very respectfully that your brief and the consultation that you've been receiving so far will continue before the bill's final reading and that we'll take those under consideration and advisement. I appreciate the participation.

The Acting Chair (Mr. David Zimmer): Mr. Dunlop, you have about three and a half or four minutes.

Mr. Garfield Dunlop: I appreciate you being here today.

I'll give you a quick story about how we got involved with the OFA, or the Simcoe County Federation of Agriculture in my area. The day the bill was introduced—and I brought this up earlier today, but I don't think you were here—Dave Riddell, the president of the Simcoe County Federation of Agriculture, called me and said, "Hey, how's this bill going to affect farming?" I said, "Not at all. Do you know what? It's all about roadside zoos. They've got a press conference out there; it's all about the different organizations that are worried about regulating roadside zoos. It's got nothing to do with agriculture whatsoever." It couldn't have been further from the truth. As we go through these hearings, we're hearing more and more how it may impact agriculture.

I didn't get a chance to read all the recommendations you've made here. I do know, though, that you have

some concerns that I would be really concerned about as any kind of an agricultural operation in the province today. I know that these are not easy times to be in agriculture today. Just the other evening, I spent a couple of hours with the Simcoe County Federation of Agriculture's board discussing the different issues they're facing with fuel costs etc. They've got enough problems without having some other headache on their side at this time.

The one thing that I wanted to ask you is, do you feel that, in the drafting of the regulations for a bill like this, you could contribute expertise from your end that would help?

Ms. Wendy Omvlee: Between the OFA and OFAC, which is the Ontario Farm Animal Council, we have been meeting with OSPCA representatives. Although we're confident that the people we had spoken to at that time would treat the act as reasonable and use the codes and work with the farmers, there are no guarantees. People move on, promotions, people retire, so clarity needs to take place because, although we're confident, perhaps the people in the leadership roles at present may not always be so. That's one thing that I would like to stress, and that's some clarity in regards to the term "distress" and the use of such, "acceptable" husbandry practices and those types of things. There just needs to be more clarity.

Mr. Garfield Dunlop: How about the Animal Care Review Board? Do you think that you should have a seat on that, as part of the legislation? It's important. I think you should, to be quite honest with you, but—

Ms. Wendy Omvlee: There's been some discussion. I don't know if we've come to an answer per se, but one thing that we do want to see—and it is one of our recommendations—is that whatever animal is being discussed, a veterinarian who specializes in that type of animal be present, so not to have a small animal vet be part of the review board and we're discussing beef cattle.

Mr. Garfield Dunlop: My final comment is that this morning a group from the Canadian Association of Zoos and Aquariums—the 25 largest zoos in the province—felt that they should have a seat on this cruelty review board. I asked them whether they would have any opposition to having the Ontario Federation of Agriculture or the Ontario Federation of Anglers and Hunters having a position on that board, and their answer was yes, they should. I wanted to point that out to you.

Thank you very much for your presentation, and we're with you on this.

The Acting Chair (Mr. David Zimmer): Thank you. Ms. DiNovo, about three and a half minutes.

Ms. Cheri DiNovo: I've just breezed through this really quickly, but certainly we agree that section 11 is very badly written and very vague and subject to interpretation. That's where the devil's in the details—in the enforcement, in this case, which has been given willy-nilly to the OSPCA. As we've heard from other deputants, there are concerns about the way that the OSPCA is already enforcing under their own jurisdictional regulations.

My first question really is, have you seen instances from your membership of the OSPCA overstepping their boundaries? Because what we hear from the government side is that this is all alarmist; that they're not going to overstep their boundaries; that if you're a reasonable farmer doing reasonable things, they're not going to make your life difficult. We've heard that in fact it's happened in other instances. Has it happened for your members?

Mr. Wendy Omvlee: Peter, I'll let you take that one.

Mr. Peter Jeffery: Yes, we are aware of instances where inspectors have come in and written orders, and after a review by a veterinarian, the recommendations and observations in terms of the animal's health and care are completely false.

Ms. Cheri DiNovo: Right. So here we have a bill that's going to give them even more power to do investigations, and clearly they're not trained to do them in many instances. You mention here too Alberta's Animal Protection Act and Manitoba's Animal Care Act. For your members, would those be seen as models for a possible way to go to look after farm animals?

Mr. Peter Jeffery: We think that both of them provide examples of wording that our membership would be better served by.

Ms. Cheri DiNovo: I'm just reiterating the concerns that everybody seems to be having with the OSPCA doing their job now. And what this legislation from the government side is doing is giving them even more power—unsupervised power—to do even more of it.

Thank you very much for coming and deputing. Again, our hearts go out to you and to those members who have suffered already. We'll try to do what we can to prevent them from suffering any more.

The Acting Chair (Mr. David Zimmer): Thank you very much for your presentation this afternoon.

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COLLEEN HERVIEUX

The Acting Chair (Mr. David Zimmer): Colleen Hervieux?

Just for the record, if you'll introduce yourself.

Ms. Colleen Hervieux: My name is Colleen Hervieux.

The Acting Chair (Mr. David Zimmer): Again, 15 minutes, a three-minute warning, and you can leave time for questions if you wish.

Ms. Colleen Hervieux: Before I begin, I would like to take this opportunity to thank everybody for allowing me to speak on such an important topic.

When I first heard about Bill 50, I had not given it much thought, but as the days went by, I knew that this bill may need a more intense look. I began to think about Bill 50 more each day. I thought about the day the Ontario Society for the Prevention of Cruelty to Animals came to my home and business and how it impacted my life. Neither I nor my family ever had any charges against us, yet we lost 10 of our precious horses. That day the

Ontario Society for the Prevention of Cruelty to Animals walked onto my property with a search warrant in hand and went to the other property, which they did not have a search warrant for, and removed my horses. This is an outrageous act the OSPCA has done to me.

So if you're looking for my public support, I do not support Bill 50. The OSPCA already goes beyond the law and makes their own rules to suit their needs. They do not need this Bill 50.

As days passed and I had more time to think about Bill 50, I began to realize the importance and impact of such a bill. If done in the right manner, this bill can be a good thing, but if it's not carefully planned, it can have a very huge impact on all our lives.

First, I think about the fact that I am from northern Ontario. I was disappointed to hear that the only discussion on this topic in the north has been cancelled. I know we are the same province, but being about six hours from here, we have a great expense in just coming here. We all know, with the price of gas, that most people can't make that trip. Maybe next time we could look at a satellite discussion at one of the colleges.

Then I think about my provincial representative, Mr. Mike Brown. Since mid-August of 2007, I have been trying to meet with him to discuss the OSPCA and how it can impact people's lives. I also wanted to discuss the importance of governance of the OSPCA because there is no one out there that this non-profit organization has to answer to. They do not answer to the Ombudsman, the provincial or the federal government. Our provincial government has given the OSPCA more than \$7.5 million in the past two years and yet there is no accountability.

It is my thought that if Bill 50 is to be put in place, then we should have someone they must be accountable to. They already have police-like powers, but the police can't stop them from overstepping their boundaries. I believe that before Bill 50 is passed maybe more thought should be given to what some of our top agricultural groups such as the OFA, the CCFA or OMAFRA have to say about it. These are three of the main groups that could have a valuable input on how Bill 50 could impact the farmers across our great province. Agriculture plays a very important role in our economy here, and if this new Bill 50 is not thoroughly thought out, then it could have a negative impact on our farmers. Back in 1989, OFA president Brigid Pyke formally asked for the province to remove the police powers from the OSPCA.

Now it brings me to the topic of prescribed standards of care. I would assume that this refers to the recommended code of practice. Our provincial government, along with the assistance of professionals such as veterinarians, has spent valuable time and money to create these guidelines to benefit the industrial and the hobby farmer, along with people who have pleasure animals. These codes are a valuable tool and source of information when it comes to the care of animals, but for the OSPCA the codes are modified to suit their needs.

The topic of distress now brings much concern from a farmer's point of view. The definition of "distress" is a

kind of suffering or stress. This is a very vague definition, so where do we draw the line? A calf loses sight of its mother and begins to bawl. This is a form of stress—or maybe it's time to wean that calf. This is also stress to the calf. What about shearing sheep? Just by doing an act we believe is beneficial to sheep, we are putting it in distress. What will happen to the transportation of animals? Each time you put an animal into the trailer, you have separated it from its herd, not to mention the motion of driving to the destination point. They both add stress to the animal. What about debeaking, the removal of the sharp points of the birds' beaks to prevent them from pecking at each other? What about castration? Where does the level of stress factor in here? I believe that veterinarians, having 10 years of schooling plus experience, should be the professionals to help determine the factors, unless the OSPCA is going to invest more time and money in training its investigators.

That brings me to the topic of veterinarians and the question of where we draw the line on what they must report. I know that most farmers have a very good working relationship with their vets. Your vet has a very important role when it comes to your farming practices. He may only come to the farm a couple of times a year, but when you need him, you can count on him any time, day or night. Most responsible animal owners seek valuable advice from their vets on a lot of animal issues, and this new Bill 50 will cripple the system that works so well because of a fear of being reported to the OSPCA. People who can't afford to go to the vet for advice will try to do home animal care with no guidance. This will cause distress to the animals.

Another concern I have, being Metis of Ontario, is how this will affect my rights or the aboriginal rights of my forefathers. We all know that we do hunt and fish this great land of ours to help provide food for our families. Has anyone taken the time to consider the impact it could have on our culture or traditions? What about a moose that has been hit by a motorist? Who would be responsible for the destruction of the animal? I know that at present the OPP or the Ministry of Natural Resources is. What about a cub orphaned when its mother gets killed by a transport? Once again it's the Ministry of Natural Resources, and they place it in a zoo. Do we give these responsibilities to the OSPCA? I think you'd better look at giving them much-needed training before you give them more police powers.

There is one last thought that comes to mind at this point: What will it do to the criminal courts and justice system? We are already backlogged in our courts and overcrowded in our jails. To give warrantless entry and police powers to a charity means that you now have a walking time bomb.

In summarizing my thoughts, I think that if Bill 50 would be passed, there should be a panel or a board put into place to make the OSPCA accountable for its actions. This group should be a combination of law enforcement, veterinarians, OMAFRA, OFA, CKC and an accountant.

Thank you for giving me the time to speak on such an important topic.

The Acting Chair (Mr. David Zimmer): Thank you. There are about two minutes each, beginning with Mr. Dunlop.

Mr. Garfield Dunlop: Thank you very much. I don't really want to say much more than what I mentioned to your husband earlier. I didn't realize at the time that you travelled so far for this meeting today, so I applaud you for that. I think you've given some good written presentations. It's something for us to consider. You've got some excellent points in here.

You're right about things, like when an animal is killed on the side of the road or if a deer drowns in the lake or something like that, that there's nobody to help you in that situation. Up in our area this year we had a deer fall through the ice. I guess he froze, and in the spring no one wanted to take the responsibility to get the deer out even though the dead deer floated up on a dock somewhere. No one wanted the responsibility. If you shoot a deer out of season, there will be someone all over you, but do you know what? If a deer dies and falls in the lake, no one wants to help get the deer out of the lake. It's that kind of thing. I think we have to clear up some of those issues as well while we're going along. That's what you've brought out here today, so I thank you for that.

Ms. Cheri DiNovo: Thank you, Ms. Hervieux, for coming down all this way to depute, and thank you to your husband and to your family. Again, heartfelt prayers for you. You've gone through so much and you've gone through it without a lot of support. What this bill is purporting to do, as you know, and that's why you're here, is to make life even worse for other people. That's what we in the NDP want to prevent from happening.

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I'm more and more concerned, the more I hear deputants today, that the OSPCA seems to be some kind of rogue organization with no accountability, no oversight from anybody, and, for those who are caught by the OSPCA, no right of appeal. I'm extremely concerned—far more concerned than I was this morning when I walked into this place—about how this organization is running itself and why it's not here. So my question is, where is the OSPCA? Where is their communiqué with us? Where is their deputant? We should be hearing from them. They have a lot to defend themselves about in this forum. I'll let that suffice and just leave it there, but again, thank you for being one of the ones to come forward, and I'm sorry for all you've had to go through, including the expense of having to depute here.

The Acting Chair (Mr. David Zimmer): Mr. Levac: two minutes.

Mr. Dave Levac: Thank you for coming to present. I think it's three family members? I appreciate it very much.

There was a scheduled hearing in North Bay, and it was cancelled because not enough people signed up to come, in case you weren't aware of that.

Contrary to the characterization that one member on this committee has made, I'm not too quick to take a

dagger and stab the OSPCA, their intent and what they've done in the province over the years, along with the Toronto Humane Society and many other animal protection groups that have done a good job of trying to keep animals safe and secure. There probably is and always will be room for everyone to get better at what they do, and that's the purpose of this particular bill. What we're going to try to accomplish here is to listen to every deputant with respect, and we'll continue to do that. You've given us some food for thought which we will take into consideration, and we will ask some of the staff to review this with us. So thank you very much for coming.

Ms. Colleen Hervieux: Could I make two more comments?

The Acting Chair (Mr. David Zimmer): Briefly, yes.

Ms. Colleen Hervieux: To have your discussion held in North Bay, we still have a lot of people who are up in Thunder Bay. That is 12 hours from North Bay, which is a long way still to go, so I don't think things were done very fairly to us in the north.

The other thing I would like to let you know is that the day the OSPCA came in and took my horses, I loaded my stock trailer with every animal I owned and I brought it to an auction just to try to get away from them. They sit in front of my house just to see what they can find on me, and when I phone the police for protection, they say, "There's nothing we can do." That is wrong, and that's what you need to consider. Somebody has to govern this group.

The Acting Chair (Mr. David Zimmer): Thank you for taking the time to present to us today and for coming all the way down from the north.

ASHLEY HERVIEUX

The Acting Chair (Mr. David Zimmer): The last member of the Hervieux family: Ashley.

As I've told the others, 15 minutes. I'll give you a three-minute warning, and you can leave time if you want for questions from committee members.

Ms. Ashley Hervieux: All right. My name is Ashley Hervieux. I'm 21 years old, living in northern Ontario my whole life. Last summer, my family and I went through a rough time dealing with the OSPCA. They came in and took half the animals and forced us to sell most of the other animals. They never returned 10 of the horses out of all the animals they took. These horses meant the world to me.

Over 12 years, there have been 60 horses that went through the farm. We've been rescuing horses from cruel fates and giving them a second chance. Three out of the 10 horses were born on the farm. I had them so well mannered and well trained at young ages that by the time they were two to three months old, they would let the farriers do their hooves.

These horses were my life. I always spent my money on them. I used three other horses for transportation: two

saddle horses and one harness horse. I never got my licence, since I always chose something for my horses over getting it. Two times a week I would take one of the horses into town to check the mail. I was a well-known rider in northern Ontario until my name was ruined by the OSPCA. I couldn't even go to the horse shows after they took the horses. They had me so upset I had fallen off of my horse over it and was rushed to the hospital because I couldn't get up without pain.

Still today, I'm not showing as much as I used to. I only went to three horse shows out of 17 already done this summer in my area, trying to avoid people who are talking about me and asking me where my two mares are that I used to show.

I lost a lot of my friends over the OSPCA. Only a few stayed by me, because they knew I took good care of my horses and only used farriers who would not hit my horses, since in the past there have been some who have.

My horses were so trusting of me that I could stand on their backs and jump from one to another and ask them to cross things such as ditches full of water, tarps, bridges and swamps. I could even sit backwards on them and have them run full out, and then just at the word "whoa," they would slow down to a stop.

When I told the OSPCA about the horses and all their information, they did not care to listen. Instead, they took it upon themselves to guess the breeds and ages, and a lot of the time, they were wrong big time. When they took the horses, they had them so upset that it caused one of them to bite an OSPCA agent. This horse never bit anyone or even tried kicking anyone in his life. When they loaded the horses in the trailer, they also had one upset. I'm the only one this horse trusted to load her, and they would not back off and give her her space. Instead, they kept making her so upset that she whacked a guy in the head with her head while backing off her when I was upset as well. They called horses "kickers" even if they weren't kickers.

These horses were like children to me. I loved them to death. I would have never rehomed them to homes or people that weren't suitable for each horse. The training techniques I used were non-force. The horses chose when they were ready to do something. They always joined up with me to see I wasn't going to harm them in any way. I could walk under their bellies, sit under them, and they would never kick me or hurt me. In less than a week, I could have a new horse at the age of three years old riding with just kindness. People still ask me today how I get my horses to follow me around at the shows without asking them. If the OSPCA had taken the time to watch me work with these horses, they would have seen that I truly loved the horses.

I fought for almost a year with a horse because his foolish previous owners had gotten him caught up in page wire fencing and did not want to deal with it and instead shipped him to an auction. He was destined for a slaughterhouse, being that all four of his legs were cut up so bad that he'd be scarred for life. I begged my parents to buy him since no one else was bidding; I knew the

meat buyers soon would be, since he was down to five cents a pound. This sweet little guy didn't deserve the fate at the slaughterhouse.

It doesn't matter what farm, ranch or stable you go to; there's always going to be an animal hurt. There's no perfect place in the world. If Bill 50 passes, many lives will be ruined, because there will always be something wrong at a farm, stable or ranch. If they took a little better look at the auctions and how the horses come in and fined the owners who brought in horses that were hurt or needed farrier attention, then maybe less horses would be in this situation and then the ones who do save these horses—and not punish the family, as they did with my family.

The OSPCA needs to be accountable for their actions. Instead of taking animals from farms such as my family's farm, they should go in and educate the family and help them improve things, not come in and take the animals in excellent health, which shows they're well taken care of.

Instead of using the 1 to 5 scale our top Ontario vet has produced, they use the old 1 to 9 scale the Texans made, which is more complicated to use than the 1 to 5 scale. Only vets can tell the difference between each, since a lot of normal people cannot tell the difference between them on the 1 to 9 scale.

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A horse is like a human. They all have their own personalities and body types, all depending on their breed and bloodline. You can take the same breed of horse but just different bloodlines—one can naturally be skinny and the other overweight, such as humans can be. Every horse is different. Those charts aren't a for-sure answer; just a guideline. Someone who has never seen the horse before in their life cannot say if the horse is skinny or overweight without knowing the horse. It also matters what the horse is used for. If you take a horse like a standardbred harness-racing horse, to most people it's okay for them to be thin, yet it's not okay for a quarter horse who barrel-races. Also, when it comes to a mare with a foal on her side, to most people it's wrong if she's skinny, but in all truth, she's giving everything into making milk for her foal, such as a dairy cow that produces milk for us to drink. Why is it okay for a dairy cow that produces milk to be skinny but not a mare producing milk for her foal? A dairy cow that is stocky, heavy like a beef cow, does not produce milk as good as a skinny one. The same is for a horse, but no one really took that into consideration when it comes to a mare with a foal on her side.

I've always had a love for horses. Truly, I know in my heart that if the OSPCA doesn't become accountable for their actions, answering to someone, we will lose a lot of people who do save these horses and other animals from certain death. Many animals are dropped off on the road because they're no longer wanted—and nowhere to turn to bring these animals. They don't want to bring them to the shelters to be killed. Many cats have this fate of being dropped off on the road because their owners did not want to fix them so there is no multiplying of cats.

Many people are afraid of the OSPCA, which is wrong. I used to be with the OSPCA on how they rescued animals till they took my beloved horses. I was heartbroken, being they were my life. Everything I did revolved around them. Two of my horses I used to teach riding lessons to kids. Since this happened I have not taught a single lesson over it. No one wants to bring their kids to the farm now to learn to ride. I had trouble getting people to even let me train their horses after, but finally one person let me, and slowly some other people are letting me again, but they are afraid the OSPCA will come in and take their horses if I'm training them at our farm.

They should have answered to someone why they took my horses from me. They never listened to what I told them about each horse, such as one who needed a blanket in fall/winter/spring, since she gets sick easily and is easy to colic with her on grain. She was a very sensitive mare before all this happened. The horses we did get back were troublemakers—the four—except something had turned an older mare very cross in the barn. She would get so upset you couldn't enter her stall without her kicking you. We're not sure what had gone on for the month she was with the OSPCA but she was not the same once she came home. She was bitter, not the kind mare she was a year ago when she came in, who was willing to be trained the first week at the farm at the age of eight years old. Most say horses over seven years old are untrainable, but I've proven that wrong more than once. If they would have not touched her at the OSPCA, she might have still been okay today in the stall.

The Acting Chair (Mr. David Zimmer): Ms. DiNovo, a minute or so.

Ms. Cheri DiNovo: Thank you, Ashley, for coming down. This must have been so difficult for you. I just want to tell your family, I hope you're putting in for the compensation that you get for travelling to Toronto. I know that's not compensation for what you've gone through, but at least know that you're eligible for that.

I also want to say something about the way these deputations have been conducted. There have only been about five and a half days of notice given to people to depute. There certainly has not been enough time and it's not far-ranging enough to include people from the north, such as yourselves, to be able to come and depute before this committee. Just for the record, it's not only the bill itself but it's the way the bill is being looked at that is problematic.

Thank you, and again, I know that we in the NDP will do everything possible to try to make sure this does not happen to others. To do that, of course we need support from across the province. So I would just ask you, everybody who is listening to this and everybody who is taking part, to please let everybody know to write in to this committee and to write to Dalton McGuinty himself and let him know how you feel.

The Acting Chair (Mr. David Zimmer): Mr. Levac, about a minute.

Mr. Dave Levac: Thank you very much for your presentation, Ashley. I appreciate that there is a strong

connection between you and the horses and that's a very special thing. I appreciate the difficulty that you and your family went through.

To be clear, when accusations that the deputations are set up—that the government is being impugned for the committee's structure: The subcommittee, which is made of three members, one from each party, decided on how the rotation would take place and they all agreed upon it, so that you're aware that we tried to do the best we could. We all agreed that North Bay would be the one spot we'd go to, and unfortunately not enough people put their names forward, and therefore we met again as a committee and we decided to do that.

The other thing we decide to do sometimes, which I took into consideration when your mom made her presentation: We will seriously give some good thought to what should happen more often, and that is the availability of using the TV—remote spots that would be advisable to do, which has been done in the past and which we'll continue to do.

Thank you for your deputation. We appreciate your tough, emotional stance.

Mr. Garfield Dunlop: I don't know what to say. Your story is a sad story and I feel for you. I know that you wouldn't be here if you didn't want to voice those concerns so that whatever happened to you doesn't happen to someone else. I don't know how many days we've set aside for clause-by-clause, but I think we're going to need more than one for sure. Congratulations once again for having the courage to come down. I really appreciate your presentation today.

The Acting Chair (Mr. David Zimmer): Thank you very much for coming down from North Bay and presenting today.

Mr. Garfield Dunlop: They came from Massey.

The Acting Chair (Mr. David Zimmer): I'm sorry, from Massey.

BURLINGTON HUMANE SOCIETY

The Acting Chair (Mr. David Zimmer): The Burlington Humane Society.

If you would introduce yourself for the record; you have 15 minutes. I'll give you a three-minute warning. You may leave time at the end of your presentation for questions if you wish.

Ms. Jolene Regan: I'm Jolene Regan, volunteer president of the Burlington Humane Society.

Ms. Judy Coney: I'm Judy Coney, volunteer adoptions director.

Ms. Jolene Regan: I've included in my package a more detailed presentation. I'm only speaking on the highlights. Also, in the appendices I have backup information.

Before 1970, the Ontario SPCA, then called the Ontario Humane Society, operated a branch in Burlington, called the Burlington Humane Society, and provided animal control, cruelty investigations and adoptions of stray and abandoned animals to the city and surrounding

area. After that branch abandoned the city as of December 31, 1969, no organization provided animal rescue services to Burlington's animals except the city of Burlington animal control, and with limited funds and boarding facilities euthanized most of the animals taken into its care or sent them to research facilities.

In 1974, the Society for Animal Aid (Burlington) Inc. was established to rescue some of those animals. Since that time we have provided shelter, medical care and adoptions for many of Burlington's stray and abandoned animals.

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In 2006, plans were being made to build our own shelter, and we felt at that time that a name change from "Animal Aid" to "Burlington Humane Society" was necessary in order to further identify our mission. Therefore, on November 16, 2006, we legally and officially changed our name to Burlington Humane Society, a process that took approximately six months at a cost of approximately \$10,000.

Section 6 of Bill 50: We are not against Bill 50 in its entirety and commend any effort to provide stiffer penalties for animal abuse. We know we will be forced to change our name if section 6 of the new proposed act is approved.

The Burlington Humane Society has never attempted nor insinuated that we provide animal cruelty investigations in the city of Burlington, as that right has been given to the Hamilton SPCA. As of 1999, the OSPCA had set new boundaries for all affiliates and branches, and the city of Burlington was included in Hamilton SPCA's territory. Between 1970 and 1999, the police were usually called for a case of animal cruelty in our city.

In 2002, the Hamilton SPCA began harassing us, and on January 28, 2003, they sent a letter to the city of Burlington stating that they reserved the right to request enforcement of section 10 of the OSPCA Act against us. That section is called "Prohibition." That threat was withdrawn in January 2005 after a newspaper reporter began investigating the issue.

Then, after changing our name to Burlington Humane Society in 2006, we received another threat, this time from Jennifer Friedman, legal counsel for the OSPCA, on behalf of the Hamilton SPCA, informing us that the OSPCA and Hamilton SPCA had exclusive use of the name Burlington Humane Society, again quoting section 10 of the OSPCA Act, and threatening legal action if we did not immediately cease using the name. The name Burlington Humane Society had not been used or registered since 1970, a period long enough to deem any claim to the name null and void. Michele Ballagh, our lawyer, asked Ms. Friedman several times for proof that our name was in contradiction of the OSPCA Act, but that was never provided.

The last of three letters we received from Ms. Friedman, dated June 4, 2007, stated that legal action was forthcoming. To date, we have received no further action.

Ironically, in attempting to file "Burlington Humane Society" as a trademark name, Industry Canada will not recognize the words "humane society" as a trademark, as the words are considered generic. In other words, they cannot be considered trademarks or the exclusive property of any particular organization, in the eyes of a neutral expert. Our lawyer, Ms. Ballagh, a trademark law specialist, also queries whether the province has the authority to enact legislation in this regard, as trademarks, unlike business names, are considered federal jurisdiction.

Change requested to Bill 50: Section 6 of the proposed Bill 50 must be removed. If it is not, Burlington Humane will no doubt be stripped of its name and its well-earned reputation in the Burlington community. Please help the Burlington Humane Society and other animal welfare organizations continue to provide necessary services to communities in Ontario. These independent organizations operate at no expense to the government and save thousands of animals each year that would otherwise be euthanized. If you agree to pass Bill 50 including section 6, you will be giving the Ontario SPCA the power to continue on its path of bullying Burlington Humane and others who only want to spend their money on the animals, not on legal issues. For the \$10,000 it would cost us to change our name again we could spay 100 female animals, neuter 180 or vaccinate 285. Section 6 of this bill has the mark of Jim Sykes written all over it. Mr. Sykes is CEO of the Hamilton SPCA and chairman of the board of the OSPCA, the same organizations that have been harassing Burlington Humane since 2002.

I would like to ask, who has more right to use the name "humane society": an organization such as Burlington Humane, that cares for all stray animals regardless of age or health problems and does not euthanize unless recommended by a veterinarian due to serious illness or behavioural problems; or an organization such as an SPCA that only takes in the cream of the crop, highly adoptable animals, and also takes in animals from the US with much publicity, while animals in their own city are being euthanized at a rate of 5,000 or more each year? Please remove section 6 of Bill 50 and allow Burlington Humane and other independent humane societies across Ontario to continue their good work without bearing the brunt of bullying by the Hamilton SPCA and the Ontario SPCA. Thank you.

The Acting Chair (Mr. David Zimmer): Thank you. We have about three minutes for each party, beginning with Mr. Levac.

Mr. Dave Levac: Thank you for the presentation from your society. I appreciate it. You might not have been here when I indicated that we would be looking at an amendment to section 6 to avoid the use. There are other components inside of section 6 that we probably will be continuing to look at to avoid the fraud issue and to protect the agencies, both kinds of agencies, and no matter whose name, we use it to protect them from the tricksters out there who go door to door, somewhat similarly to the gas people and other organizations that

don't have anything whatsoever to do with the safety of animals. You can rest assured that the name will stay the same.

Ms. Jolene Regan: I heard that this morning. Thank you.

The Acting Chair (Mr. David Zimmer): Mr. Dunlop.

Mr. Garfield Dunlop: Thank you very much for being here today. It's amazing when you get thousands of signatures on petitions. I asked the minister the question in the House, "Will you remove section 6?" Of course it's not called "answer period," it's called "question period," so I didn't get an answer. However, it looks like the government is going to cave on this one particular area. We don't know what the amendment will actually say, but we're with you as well. We think that section 6 has to go, plain and simple, and there's just absolutely no reason to have it there. I applaud you all for coming forward, all the different humane societies and the people who signed those petitions, asking for section 6 to be removed. Thank you.

The Acting Chair (Mr. David Zimmer): Ms. DiNovo, about two minutes.

Ms. Cheri DiNovo: Thank you for coming forward and thank you for deputing. If there was ever a more graphic example that this section is not about fraud—has nothing to do with people going door to door, that's a federal matter, it's already covered—this is about bullying by one organization to other organizations. It's about turf warfare and it's about warfare by the SPCA over humane societies. They want your turf; they want your ability to fundraise. That's what they're about. It's very clear. You've finally put a name to a face, this Mr. Sykes. I'd love to hear from him. Where is he? It would be interesting to hear his deputation in this room.

I'm appalled that this has been going on at your expense and at the expense of animals and those who would be their owners and who care about them. Again, we are absolutely in favour of removing the entire section 6 from this bill. There's no reason whatsoever that it be there.

Again, thank you. Don't be snowed by spin. We'll continue to fight; you continue to fight and keep those letters coming in, because until the section's removed, it's still there. Thank you.

The Acting Chair (Mr. David Zimmer): Thank you very much for coming in to present to the committee.

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CANADIAN KENNEL CLUB

The Acting Chair (Mr. David Zimmer): The Canadian Kennel Club, Lee Steeves; so 15 minutes. I'll give you a three-minute warning. If you leave some time at the end, members will use it to ask questions.

Ms. Lee Steeves: Thank you. My name is Lee Steeves and I'm the director of the Canadian Kennel Club from Halifax, Nova Scotia. I'm also the chair of the responsible dog ownership committee for the Canadian Kennel

Club, and that's why I'm here today. Members of the kennel club from across Ontario have expressed significant concern about the amendments to Bill 50 and they've asked me to bring a presentation to you today.

The CKC was established in 1887. It's an organization that's supported dogs and their owners throughout Canada, promoting ethical breeding practices and breeder accountability for well over 100 years. Included in our mandate is cooperating with governments at all levels in Canada and the development of legislation that will effectively control the activities of irresponsible dog owners and breeders without unduly restricting responsible owners and breeders, and also promoting the knowledge and understanding of the benefits that dogs can bring to Canadian society and the means by which these benefits can most effectively be enjoyed. As a national organization, we take these responsibilities seriously and we work regularly with municipalities, with provincial governments and with federal staff to further responsible dog ownership in Canada.

Today, we hope to offer to you supportive input to the proposed amendments to Bill 50. At a time when pet ownership is rising to never-before-known numbers in North America, it is commendable and we thank this government for reviewing the existing legislation and considering the necessary amendments to present responsible ownership and to respond to situations where there is notable irresponsibility. We commend your forethought and we thank you for moving forward.

There are areas of the current proposed amendments, though, that if reworked would better support improved care and monitoring of companion animals. You've heard, I'm sure, this morning concerns surrounding section 11. Perhaps our most significant concern with this amendment is the lack of the addition of an independent oversight committee. A self-policing organization with no separate and independent review mechanism lends itself, even if unwittingly, to public criticism and the impression of nepotism or worse. With the addition of such a committee, the province would be in a position to better support the decisions of the OSPCA through a credentialed and independent structure. This would offer the OSPCA the impartial response required for this type of government-funded organization and would assure Ontarians that their rights and privileges associated with pet ownership are being taken seriously, and with due diligence being paid the decision-making process.

The Canadian Kennel Club is willing and would like to offer to support this independent structure, and offers our resources, at no cost, to the province to assist in the development of the mandate and structure, as well as offering to take a seat on the committee at the province's discretion.

While we understand the challenging nature of an SPCA inspector's duties, it is unclear to us, as specialists in dog breeding and animal care, why the decision was taken to provide all "powers of a police officer" to individuals not trained to assume this role. While this degree of decision-making may have been required in

decades where the police presence in areas such as rural Ontario was meagre, this is no longer the case. The training and competence of our police forces, and certainly of our Ontario police forces, is among the best in the world. Given that fact, unless the province is intending to provide an equal level of training to all of its OSPCA inspectors, it is recommended that these duties requiring a policing presence should remain with the police. Both from a safety and an evidentiary standpoint, these trained professionals are in a much stronger position to respond to the legal and potentially dangerous situations surrounding search and seizure, situations that are not everyday occurrences and that are better handled by those with professional training and experience. Limited policing powers may be necessary, but the full powers of a police officer provide an overreaching mandate that will not serve to better protect either Ontarians or their animals.

Section 11.4: We again commend you for requiring that inspectors now provide to those citizens with whom they are dealing evidence of their appointment and urge you to delete “on request.” With emotional situations where animals are involved—and we’ve just heard of those—and serious decisions being taken by the OSPCA, it should be a matter of course for the agent to professionally identify him or herself in every case.

A mechanism to deal with dogfighting and those who support and encourage it is well placed in this amendment. We would encourage you to go one step further with the addition to section 11.2 and define animal fighting equipment and structures so that there can be no mistake of the seriousness of the offence and the evidence of its existence is made clear to inspectors.

Given the relative ease of obtaining a search warrant using technology as outlined in this document in your amendments, it is recommended that “without a warrant” be limited to extreme situations where an animal’s life is at stake and the time necessary to obtain a warrant not available. In all other cases, a warrant should be necessary. It is important to note that many boarding facilities throughout this province are private premises on private residential property, not incorporated businesses. These facilities run from the homes and buildings of private citizens. Warrantless search and seizure should not be possible in these cases.

Section 12.1(3): The ability to care for animals is a highly specialized process. Many of our companion animals are being treated by veterinarians for illnesses that even a decade ago were undiagnosed because no treatment was available. To ensure that an animal’s life is not compromised, it is recommended that at the end of this clause there should be additional wording: “He or she may”—he or she is the inspector—“in addition to any other action he or she is authorized to take under this act, supply the animal with food, care or treatment by a veterinarian.” The OSPCA inspectors should not be treating animals. They don’t know what treatment the animal is already under, and they could and will do more harm than good should this stay as it’s written.

Section 15.1: Given the abundance of purebred dogs in society, as well as the increasing awareness of the general public in the area of identifying pets for the purposes of repatriation should they become lost or stolen, it is recommended that the act acknowledge the existence of and make provision for examination of the animal for the evidence of a tattoo and/or microchip prior to assessing the animal found or seized as having no owner.

Section 15(2)(c) and (d): Add to the end of both sentences, “Based on industry rates.” Neither the province nor individuals who are being charged in these areas should be charged exorbitant amounts. If you use the industry rates and norms that are applied, those questions won’t arise.

In clarification of the bill’s intent, it notes that section 1 of the act is amended to clarify that if the owner or custodian of an animal is a minor, the minor’s parents or guardians are deemed owners for the purposes of the act. It is recommended that this be taken one step further and that the bill be amended to note that if a minor is deemed to have offended—whether or not he or she is the owner—under this act, the parents/guardians be held responsible for damages incurred.

In summary, the Canadian Kennel Club is appreciative of your efforts as a government to better support animals in a safe and humane environment in the province of Ontario. We recommend an annual report be required to be presented to the Legislature providing the government and the citizens of this province a full accounting of the activities of a society so heavily funded by government.

We’ve provided today our thoughts on moving this legislation forward in an even more positive way, increasing accountability of citizens and of the government in an effort to improve our society. In the addition of an independent oversight committee, the limitation of policing powers for those not fully trained to perform policing functions, the limitation of situations not requiring a warrant to only those that are critical, and the clarification of the areas as outlined in this presentation, this act will be strengthened in a way that will meet the objectives of this government, of the OSPCA, and of the agencies and entities with whom you are working to better support Ontario’s citizens.

The Acting Chair (Mr. David Zimmer): Thank you. We have about two minutes per party, starting with Mr. Dunlop.

Mr. Garfield Dunlop: Thank you very much. It’s been a long day here. I think we’ve got a few days ahead of us like this.

I don’t really have a lot—you’ve brought out some good points here. I think the last time I saw a lot of comments from your organization was on the pit bull legislation.

Ms. Lee Steeves: We’re back.

Mr. Garfield Dunlop: I think that was the largest pile of emails I’ve ever had in my life. They were from all over the planet.

There are some good points here and we'll be considering these as we go through the debate.

Ms. Cheri DiNovo: Just further to what Mr. Dunlop said, you'd think the government would learn after the pit bull legislation to not make the same mistake again, but here we go again.

Thank you very much for your submission, and thank you also for making the points that some other deputants have made. It just adds weight to what they've said.

I'm interested too in what you had to say about the role of a veterinarian and of course the warrantless search and seizure. I want to make it very clear that we in the New Democratic Party are not in favour of warrantless searches and seizures unless necessary. That's absolutely critical. If an animal's life is at risk or in danger, then certainly people need the right to go in there and save it.

So again, thank you. We'll certainly do everything we can to make—I've made note of your recommendations; I think they're all good. We'll see if we can't get them in place.

Mr. Mike Colle: I just have a question about your recommendation vis-à-vis section 11.2. Could you please expand on that, the animal fighting provision, making it stronger?

Ms. Lee Steeves: What we would like and what we would recommend are definitions of the types of equipment that the inspector should look for, that actually have been proven to be used throughout North America for dogfighting, dogfighting rings. There are specific pieces of equipment. I don't think OSPCA inspectors would necessarily know what they were looking for, so if they have a list and it's incorporated in the act, it will be very clear to them. If they anticipate that they're going into a situation where dogfighting may be part of the issue, they should know specifically what it is they're looking for.

Mr. Mike Colle: The equipment description, but not only dogfighting, there's bird fighting, there is all kinds of animal fighting taking place in this province that right now is basically legal. There's no prohibition.

Ms. Lee Steeves: That's right. We're the CKC; I can only speak to dogs. But as far as the equipment goes, we do have some expertise. We can work with the government if you're interested in getting a list of the types of equipment that would be used if you're dealing with dogs. We're heartened to see that this is being added to the act. Again, we speak to dogs because that is part of the Canadian Kennel Club.

Mr. Mike Colle: There was quite a sophisticated ring broken up in the Windsor area early this year. It involved birds that were being trained to fight with all kinds of equipment on their claws on so forth. Anyway, thank you very much for your very thorough submission.

The Acting Chair (Mr. David Zimmer): Thank you for coming in to make a presentation today.

Committee, Diana Shore, was to present at 4:45. We've called her and she's expected here to present at 3:45, in about 10 minutes. I propose we just stand down—

Mr. Dave Levac: Mr. Chair, can we take a recess, please?

The Acting Chair (Mr. David Zimmer): Yes. So I propose we stand down until 3:45 or so.

The committee recessed from 1532 to 1611.

DIANA SHORE

The Acting Chair (Mr. David Zimmer): Hello. How are you? This is the committee. Are you Diana Shore?

Ms. Diana Shore: Yes, I am.

The Acting Chair (Mr. David Zimmer): Thank you very, very much for making the effort to get down here. Your time was at 4:45 but you came early to help us out with our schedule.

I'm the Chair of the committee. These are the Liberal members, the NDP member and the Conservative member. You get to sit at the table here. You'll have 15 minutes to make your presentation. You can use all of the 15 minutes or any part of it that you want. If you don't use all of your time, the members of the committee may or may not have some questions. I'll give you a three-minute heads up that your time is about up, but you can use as little or as much of it as you want.

Ms. Diana Shore: Okay. Thank you, David.

The Acting Chair (Mr. David Zimmer): And if you will introduce yourself formally for the record.

Ms. Diana Shore: Diana A.F. Shore from west Lincoln, landowner and farmer.

Ladies and gentlemen of the elected council, greetings from west Lincoln. I come to you today as a voter to express the concerns of your constituents, my neighbours, whom you have promised to represent through your office.

Today I'm here to discuss concerns over proposed changes to Bill 50, the Provincial Animal Welfare Act. Primarily, I have a major concern as to what kind of organization the OSPCA actually is. Is it a charity organization? If so, why has the OSPCA received over \$7.5 million in provincial funding over the last two years? This tax money is from the people of Ontario going to charity. I did not vote for a representative to increase my taxes on one hand to give to a charity organization on the other. With the provincial funding and the government empowerment dictated by Bill 50, then technically the OSPCA should be considered a provincial government organization. The Ontario SPCA would then fall under the jurisdiction of the Ombudsman and the freedom-of-information act, which would begin to address accountability and transparency issues.

As for the existing empowerment and proposed increased empowerment given to this charity organization, this gives the organization free rein to bully, falsely accuse, intimidate and harass your constituents with little or no recourse to accountability. This has been, and is currently, happening. This will continue, and passing the changes to this bill will increase the incidence of unjust action and charges set upon rural constituents.

This has led to the formation of the OLA. No doubt, you have heard of the OLA; I hope so. This consists of over 20 regional landowner associations throughout Ontario. As an elected representative of the people, you must consider why the people who voted you into office feel that they need to protect themselves from your governance. Why has it become necessary for rural Ontario voters to band together to form such associations? Rural people in Ontario have gathered together to protect themselves from unrealistic and unjust governance such as the proposed changes to Bill 50.

If the reason of the formation of this association doesn't bother you, then you have not lived up to your duty to represent the people. This includes rural Ontario. Your job is to find out what went wrong, fix it and stop doing it. Passing changes to Bill 50 will force even more of your constituents to have to defend themselves.

Currently, there are hundreds of incidents of OSPCA and MNR officials who have trespassed onto private property at various times, day and night, including homes. Officers frequently misrepresent themselves to gather information. In the case of my family, two officers came to our property and identified themselves as Jehovah's Witnesses while having a tape recorder under their jacket they did not identify, which allows them to transcribe the conversations word for word. These are actions not permitted today, yet they are being practised with regularity. Giving this unregulated charity organization more empowerment will only increase the bullying and the intimidation. Charges are being made with our tax money "donation," defending our accusers while we pay out of pocket for our own defence. There is no reimbursement to the defenders when they win.

When a charge was laid against my family member—and this is on the record—it ended with a complete dismissal in our favour, and the MNR agent shook hands with my family and stated, "It was the best decision." It just left my family with a bill of \$2,324. There is no recourse for obtaining that money that was lost—not only that, but the income tax money used for MNR to take it to court in the first place.

Just to move along, changes targeted in Bill 50 include 7(1), subsection 11(1): "For the purposes of the enforcement of this act or any other law in force in Ontario pertaining to the welfare of or the prevention of cruelty to animals, every inspector and agent of the society has and may exercise any of the powers of a police officer." Let me ask you, why is it that a real officer must advise a suspect of his or her rights, but an OSPCA and MNR officer does not have to? How does a hired person with little to no background check and only five days' training get to exercise police powers equal to or greater than real police officers? Personally, this brings about a feeling of fear and defensive behaviour when I see an MNR or OSPCA officer approaching my property, unlike the peaceful greeting I would offer a real police officer.

Section 11.3: "Every veterinarian who has reasonable grounds to believe that an animal has been or is being abused or neglected shall report his or her belief to an

inspector or an agent of the society." I ask you, will you feel comfortable taking your animal to the vet in fear of repercussion? I believe this law, if it's passed, will prevent people from taking their animals to the vet, which will cause more suffering.

There are several other points here. I'll just quickly go through them so that we don't run out of time.

"No person shall hinder, obstruct or interfere with an inspector or an agent." Whose interpretation of obstruction do we follow: their interpretation or ours?

"Every person ... shall comply with the prescribed standards of care." I'm assuming they mean the recommended codes of practice? Again, it's perspective.

"No person shall cause an animal to be in distress." Again, we've been hassled. What about weaning, castration, de-beaking, tethering, shearing, transportation and competition? There is distress in that. We can be bullied by these people if this law is passed, because there's no law saying that we can't do this. It's much too vague.

An animal may be killed if a veterinarian determines it should die. There is no second opinion from another vet. We cannot call our own vet. We are going by the say-so of a vet who is hired by the OSPCA. That vet has everything to gain by siding with the OSPCA. The animal would be put down with no comment from our vet, no input as far as records, and in the destruction of the animal, they don't even have to contact the owner. This has happened. There are many situations where animals have been put down at boarding facilities where the owner was not notified until after the animal was put down.

If an animal has been seized or destroyed, they shall let the owner know in writing. There's no hand-delivering, no faxes. The owner is liable for any expenses, food, care or treatment incurred by the society. So why do the invoices include inspectors' time and mileage? There should be a recourse if an animal is ordered to be returned.

1620

Some are arguing that the chief inspector should be, at the very least, a veterinarian, since he or she hires, trains and oversees the inspectors. These employees have no minimum education requirement. Several have minimal to no knowledge of the animal species that they are taking care of. There is no training course required for them, except for the five days. There are occasions documented where a white boxer was confiscated because the OSPCA officer couldn't identify that it wasn't a pit bull, and the owners had to go to court. A Boston terrier was confiscated under the same thing—they couldn't tell the difference between a Boston terrier and a pit bull, and these are the people who are enforcing these laws.

There are also several points to warrantless entry, which is a direct challenge to our Charter of Rights and Freedoms—passed by someone that most of you probably know, Diefenbaker. If we want to go back and destroy the Charter of Rights, then we can go through some of these points also.

The OSPCA has the right to warrantless entry anywhere, with as many people as they deem necessary, except your residence or a veterinarian's office.

Warrants to search places that exhibit or use animals for entertainment, boarding, hire or sale will be issued automatically if an inspector feels that a search may be obstructed or has been obstructed.

Warrants and telewarrants for homes continue to be issued if they believe an animal may be in distress.

Automatic entry anywhere an inspector believes an animal is in immediate distress—once inside, they can examine and/or take anything they wish. Once they have conducted their test, they shall “dispose of the sample or carcass” in any way they wish.

Once inside, they can seize anything “in plain view”: papers, records, tools, carcasses, answering machines, computers. If they believe the thing may have been used to commit a crime or may contain evidence, they can take it.

They have to report the seizure to a justice of the peace, who may order the OSPCA to return it. I don't know a justice of the peace who is open on weekends, holidays, or after work hours.

The OSPCA can enter at any time to inspect the status of an order.

The OSPCA can revoke any order complied with and “serve notice of the revocation in writing.”

The justice of the peace may make the order and authorize the society to keep seized animals if the owner has been charged or if they had been told that the animal may be harmed if returned to the owner.

Basically, the Charter of Rights—I will read you some of the points that are the most notorious to us, as free Canadians:

“The Charter of Rights and Freedoms guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.” For the Charter of Rights to be limited, the limit must be prescribed by law, reasonable and justifiable in a free and democratic society.

The right to life, liberty and security of the person: All Canadians have the right to life, liberty and security of the person. The state cannot take away these rights, unless the principles of fundamental justice are followed. The rights under section 7 are not just about criminal law. Security of the person is about protecting people from serious harm to physical or psychological well-being, such as unwarranted search or trespass on private property. The rights under section 7 are directly about the person. They do not include business rights.

If the state takes away rights under section 7, it must follow principles that are fundamental to fairness and justice. Section 1 can justify limits on charter rights—“Guarantee of Rights and Freedoms—

The Acting Chair (Mr. David Zimmer): Three minutes left.

Ms. Diana Shore: Okay. But section 7 rights are so basic that violating them would rarely be justified.

Protection from unreasonable search and seizure: All Canadians have the right to a reasonable expectation of privacy. Section 8 limits how and when police or other officials can search you personally or search your property. Police or other officials must get search warrants from a judge before they can search your property. Why would you break this rule with the OSPCA?

People are protected from cruel and unusual punishment, such as punishment that degrades human dignity, which is out of all proportion to the offence, or shocks the public's conscience. In the rural countryside, we property owners are the public conscience. Our conscience is shocked that our fundamental rights to life, liberty and security of the person are no longer protected from unreasonable search and seizure where a warrant is required to search our person and property.

That these are fundamental violations of the Charter of Rights and Freedoms by an elected government, which has taken an oath of office to uphold the laws of the land, supply good government, protect the people and their rights; has deliberately and with malice aforethought broken the contract of trust with the people that was created through the democratic election process—and the elected government of Ontario is itself placing upon the people what constitutes cruel and unusual punishment.

Therefore, the Clean Water Act and its supporting legislation, Bill 50, are both unacceptable as written until such time as the appropriate amendments specifically stated are made.

You can read the rest if you want; I'm running out of time.

In closing, I ask these changes not be passed for Bill 50 and to have you all consider and hopefully restructure the role of the OSPCA. There is an absolute need for legislatively enshrined public accountability of the OSPCA. In other words, legislation must be changed to hold the Ontario SPCA accountable forever.

Thank you for your time.

The Acting Chair (Mr. David Zimmer): We've got about 15 or 20 seconds left, so I'll speak on behalf of the committee. Thank you very much for coming down and giving your presentation, and thank you especially for adjusting your schedule to accommodate us. We do appreciate it. I know we have your written submission, and my colleagues will consider it carefully.

Ms. Diana Shore: Thank you. Any questions?

The Acting Chair (Mr. David Zimmer): We've run out of time for questions.

MARINA KORCHOUNOV

The Acting Chair (Mr. David Zimmer): Marina Korchounov, you will have 15 minutes to make your presentation. I'll give you a heads-up when there are three minutes left. If you leave any time in your 15 minutes, the committee members may or may not have some questions. You can use any or all of your 15 minutes. Please identify yourself for the record.

Ms. Marina Korchounov: My name is Marina Korchounov. I am a resident of the Richmond Hill area.

Here are two of my kids who have been involved in our story. I have to share my story with you. I will read it because it's difficult for me. This is the letter I sent to the board, and I will read it.

The Acting Chair (Mr. David Zimmer): And we all have it.

Ms. Marina Korchounov: No, this is another letter.

"The reason I seek your attention and help is the fact that my dog who has been living with me for the last 13 years in three different countries and has always been considered a member of my family and treated respectfully was taken by the representatives of SPCA, along with the police forces, on June 1, 2006 at 4:05 p.m. by force.

"I view this act as illegal and cruel because the dog, being old and helpless, may suffer serious emotional problems as a direct consequence of it. This, in my opinion, is a real cruelty, which I personally strongly object to. Despite the dog's poor health condition due to his age, I made efforts and attempts to do my very best to help the dog feel comfortable and safe. In fact, in August 2005 he started having problems with his eye and paws. We invited a vet over to our house, Dr. Jia Asianova, who diagnosed the dog with arthritis (which is a common condition for German shepherds of this age, according to her opinion). An ointment and eye drops were prescribed to alleviate his eye condition. In addition to that, a heart problem was diagnosed and it makes the use of anaesthetic treatment highly risky to his health. According to the vet's conclusion, arthritis in dogs is an incurable condition and there is a high chance that the dog may not survive the surgery of eye tumour removal. So, following the vet's recommendation we just tried to make the rest of Terry's life as comfortable as possible, giving him our love, affection and care. All members of our family love him and my kids," at that time nine and seven years old, "are especially attached to Terry. Seeing him being taken by force caused serious psychological trauma to them.

1630

"On Friday, May 26, at 2:28 p.m., Inspector Linda Goczan ... came over to my house, following our neighbour's call to [the] SPCA claiming, without any reason of factual proof, that our family doesn't take care of Terry. The order was left, demanding us to take the following steps in order to comply with the SPCA requirements: 'Have the animal examined by a veterinarian with special attention to left eye and general health.' This was supposed to be done by Monday, May 29, [at] 9 a.m. The time given to us was not reasonable because it was [a] weekend. However, I managed to contact the veterinarian, Dr. Asianova, who attended Terry in August 2005. She was unable to come immediately and she confirmed her opinion: She can try the surgery but chances are slim [that] the dog will survive. In case we decide in favour of surgery, it should be done either before June 4, 2006, or after June 10, because she will be out of Toronto within this period. It's a tough decision because, in case Terry dies I will blame myself for the rest of my life, and due to my financial situation I can pay for the surgery after June

5, 2006. We agreed that after Dr. Asianova returns to Toronto, I would give her a call to arrange an appointment for the surgery.

"Having explained all this, I believe I made my point clear: We don't want our friend and member of the family to suffer the shock of being separated from home and loving owners and strongly believe that in the interests of his well-being, it would be best to have him back and join our family. I expect that your understanding and co-operation will help us."

Another letter:

"On June 1, 2006, our dog, German shepherd Terry Korchounov, was taken from our house by force by the OSPCA representatives and police forces. This act of cruelty towards Terry and disrespect caused emotional shock and psychological stress in all members of our family, especially our children. Seeing him being taken by force caused serious trauma to them.

"Our kids never saw people in uniform talking with their parents in such unrespectful manner, blaming them for [the] dog's sickness. Terry was [a] nanny for our kids and he was our first child. But unfortunately his poor health condition was a result of his age and common for German shepherds.

"When the SPCA agents and police forces came into our house, Terry was lying down on the floor and scared. He didn't follow their command to stand up because he didn't understand English and was trained to listen [to] just his owners.

"Kids were hugging the dog, crying and ask to leave our dog with us. Oldest daughter took her savings and asked policemen, 'Please take money and let him live with us!' My husband Dmitri was sitting on the chair (his English very poor) and trying to say something but agents didn't listen [to] him. They just blamed us. When Dmitri was trying to stay, the policemen immediately called for [a] support unit. One of [the] policemen talked to me how bad owners we are. Agent Goczan threw the order and told me, 'You can continue to watch your TV. We will take care of your dog!'

"They grabbed Terry—he was crying—and took him to the car. Two OSPCA cars, four police vehicles have been too much for our small community. Now our neighbourhood [is] thinking we have problem with law.

"Our life was changed. We still can't believe it happened with us. Terry [had] been part of our family over 13 years in three different countries and [had] always been loved and treated respectfully—been taken away by force.

"We can't believe it can be done in [a] democratic country. It [was] possible in Stalin's Russia.

"What kind of lesson our children took?"

"How it will be reflected in their lives?"

How did the SPCA help our dog? Nobody gave us the answers.

The rest of the story: We took our dog back after two weeks. My husband lost his job because he was always with me. I lost my position—I was a senior sales director with Mary Kay cosmetics—because I was not working the time. After this huge shock, I'm still recovering.

After we took Terry home, two months later he was paralyzed after the shock. For almost three months, my husband and I carried him in and out for his needs. Later, he died.

You can see this picture on the other side of my letter. This is the picture my oldest child made after Terry's death. She had been a student at an art school, and she finished her education at the art school because she just can't make any pictures after this. Maybe you will take this as a sign. After they took Terry for cremation, I found this exactly after. I took this as a sign, because I think we made everything right and what we met with was just not fair.

Thank you.

The Acting Chair (Mr. David Zimmer): We have about two minutes for each caucus, starting with Ms. DiNovo.

Ms. Cheri DiNovo: Thank you very much, Mrs. Korchounov, for coming and deputing before us. Also, thank you to your children. It sounds like a horrible ordeal.

We're here—certainly I'm here for the New Democratic Party—to try to make sure that never happens again. The more I hear—and you're not alone; we've been hearing from deputants all day, many of them with similar stories about the OSPCA—I'm absolutely shocked and appalled. This is an agency that gets government money and no government oversight, clearly.

I wonder where they are. One of the deputants said that in the States, you can actually compel people to come and depute before a committee such as this. I wonder where the chair and the CEO of the OSPCA are, because they should be here. They should have to answer to you and to families like yours who've gone through this. I think it's unconscionable. I think it's awful.

I'm glad these are being televised. I'm glad they're being Hansarded; you'll be able to read about this. I know that animal activists and folk who care about animal rights will be with you in spirit and will hear about this all across this province. Thank you very much.

Ms. Marina Korchounov: Thank you.

Mr. Dave Levac: Thank you for your deputation and thank you for being here as quickly as you were.

Did you take your case to the Animal Care Review Board?

Ms. Marina Korchounov: Yes, we did.

Mr. Dave Levac: And the consequences of that?

Ms. Marina Korchounov: The board review took place when Terry had been in the OSPCA shelter about two weeks. They made the decision to give Terry back.

Mr. Dave Levac: So there was recourse for you to take and you took it. Were you satisfied with at least the Animal Care Review Board's decision?

Ms. Marina Korchounov: We were satisfied just to take Terry back.

Mr. Dave Levac: As a result of your experience, you've read the bill over. Is there any aspect of the bill that you're favourable to? Bill 50: Is there anything in Bill 50 that you are in favour of?

Ms. Marina Korchounov: I think my goal is not to destroy the SPCA, because we need some society to help the animals. Of course, there are lots of worse cases, but they have to be truly trained, not just two weeks or two months. They have to have psychological courses. My point is, do not have them have police force. A private charity, a non-profit organization, can't use police power. It must be government force.

Mr. Dave Levac: Thank you very much.

Mr. Garfield Dunlop: I really have nothing further to add except to thank you for coming today and for the story we've heard.

I guess if anything, I would have thought today there would have been a lot more positive comments about the bill and different areas. We've heard a lot of negatives today, and that just kind of added to it, so we'll seriously consider your recommendations.

The Acting Chair (Mr. David Zimmer): Thank you for coming in to present to this committee, and thank your children.

Ms. Marina Korchounov: Thank you very much.

Ms. Cheri DiNovo: Point of order: I think Mr. Dunlop was going to make the same one, but I understand that we need to pass a motion to be able to compensate the Hervieux for coming down from where they had to come from—Massey. So I just want to know if you can pass that—

The Acting Chair (Mr. David Zimmer): Yes.

Mr. Mike Colle: It's standing policy.

The Acting Chair (Mr. David Zimmer): Yes, of course. Is there a seconder?

Mr. Garfield Dunlop: I would second the bill for their expenses.

The Acting Chair (Mr. David Zimmer): I'm going to ask the clerk just to provide some background information that led up to this issue of the deputants coming in rather than being looked after up there.

The Clerk of the Committee (Ms. Susan Sourial): As members will know, in the subcommittee report one of the points was that we needed eight witness requests to travel to any location. The subcommittee report also mentioned that where we didn't travel we would offer conference or teleconferencing to the witnesses if they didn't want to travel to Toronto. The Hervieux were offered to make a conference call if they didn't want to travel to Toronto.

Mr. Mike Colle: Question?

The Acting Chair (Mr. David Zimmer): Yes.

Mr. Mike Colle: Isn't there a standing policy that witnesses coming from afar can be compensated by the legislative committee for the travel?

The Acting Chair (Mr. David Zimmer): This is a motion and it's a debatable motion. The majority of the committee has to approve it. I thought it was important that you know some of the background. Mr. Levac?

Mr. Dave Levac: For clarity purposes, is the motion for the deputants who came from the north who were not provided with the opportunity to be here? Is that the implication or is it all deputants? I need to get clarity for that.

Mr. Garfield Dunlop: The Hervieux family.

Ms. Cheri DiNovo: For the Hervieux family; for them specifically, coming from Massey. It's a long way.

Mr. Dave Levac: We have no problem with that.

The Acting Chair (Mr. David Zimmer): All in favour? Carried. Thank you.

So that concludes the hearings. Thank you very much. Ms. DiNovo, just for a moment. The clerk has reminded me to remind everybody to be at the Skyservice Esso Avitat location at 7:30 a.m. because the plane leaves at 8 a.m.

The committee adjourned at 1643.

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Tuesday 22 July 2008

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Mardi 22 juillet 2008

**Standing Committee on
Justice Policy**

Provincial Animal
Welfare Act, 2008

**Comité permanent
de la justice**

Loi ontarienne de 2008
sur le bien-être des animaux

Chair: Lorenzo Berardinetti
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
JUSTICE POLICYCOMITÉ PERMANENT
DE LA JUSTICE

Tuesday 22 July 2008

Mardi 22 juillet 2008

The committee met at 1002 in the Sheraton Four Points, London.

PROVINCIAL ANIMAL
WELFARE ACT, 2008LOI ONTARIENNE DE 2008
SUR LE BIEN-ÊTRE DES ANIMAUX

Consideration of Bill 50, An Act to amend the Ontario Society for the Prevention of Cruelty to Animals Act /
Projet de loi 50, Loi modifiant la Loi sur la Société de protection des animaux de l'Ontario.

ENVIRONMENT VOTERS

The Acting Chair (Mr. David Zimmer): Welcome to London, everybody. The 4:30 agenda item, Environment Voters, has been moved to 10 o'clock. I understand that Karen Levenson is here; come forward and join us. You see all the committee members' names. These are the Liberal members, opposition members, Conservatives, NDP. You have 15 minutes. I'll give you a three-minute warning when your time is about to be up. You can use the 15 minutes or you can leave time at the end for questions from members of the committee. Okay?

Ms. Karen Levenson: Okay.

The Acting Chair (Mr. David Zimmer): And if you could introduce yourself for the record.

Ms. Karen Levenson: My name is Karen Levenson. I'm with Environment Voters. First of all, I want to thank the chairperson and committee members for having me speak today on behalf of Environment Voters. Environment Voters is a national non-profit organization that uses electoral politics to create legislation that is favourable to animals and the environment.

First, I want to applaud the people of Ontario and the provincial government for their very progressive approach to the treatment of animals and for their recognition of our joint responsibility to provide the best possible protection for animals in Ontario. I also want to commend the Ontario Society for the Prevention of Cruelty to Animals for its ongoing commitment and dedication to protecting animals in this province.

Apart from my being the director of Environment Voters, I believe I'm particularly equipped to be speaking before the committee today. Prior to my position with Environment Voters, I worked for 25 years in the

advertising industry; eight of those years were promoting pharmaceutical products. In that time I've read a vast amount of clinical and animal use studies. I've also worked at the research communications office at the University of Guelph and participated in a voluntary dog-walking program.

The Acting Chair (Mr. David Zimmer): Excuse me. I think if you could just back up a bit from the mic, it'll be easier for us to hear.

Ms. Karen Levenson: Okay. Can you all hear me?

The Acting Chair (Mr. David Zimmer): Yes. That's much better.

Ms. Karen Levenson: I participated in a dog-walking program that was supposed to enrich laboratory dog life. Furthermore, I have first-hand experience in dealing with life-threatening illness. A family member has an illness very akin to ALS. He is now in a nursing home and cannot use any of his muscles. So that's me.

The amendment to the Ontario Society for the Prevention of Cruelty to Animals Act broadens the authority and increases the power of the OSPCA to protect individual animals from individual acts of cruelty, yet the amended OSPCA Act does not protect animals from institutionalized cruelty. In fact, the exemptions to the act weaken it in such a way that institutional cruelty is actually easier to continue.

We are woefully behind Europe despite the progressive approach—I don't want to take away from the wonderful proposals of this bill, but I want to say that we are woefully behind Europe in our protection for animals. In fact, there's a ban on animal use in cosmetic testing throughout the European Union that will take effect in 2009. Any products that want to be distributed in the European Union must prove that they have not been tested on animals.

Furthermore, the Spanish Parliament approved a resolution confirming human rights for great apes. We're talking about chimpanzees, gorillas, orangutans and bonobos. They believe that non-human hominids should have the same right to life, freedom and protection from torture that you and I share. As a matter of fact, they've followed the leads of the Netherlands, New Zealand, the United Kingdom, Sweden, Germany and Austria. Austria actually bans use of animal research on lesser apes.

If we look specifically at animals in research, Bill 50 does nothing to protect or advance animal protection for research animals. For every one animal hurt by an

individual or in a dogfighting ring, there are hundreds that are hurt behind the closed doors of institutionalized cruelty. That includes research labs. The exemption gives triple protection to those who own or operate a research or supply facility from which animals are bred or housed to be used in research. Perpetrators of cruelty within the system of animal research are protected by the Animals for Research Act and by the legal arguments of colour of right and lawful excuse. The exemptions do not protect animals; they protect those who can potentially abuse and misuse animals in the name of science and education. Since research labs and supply facilities are already protected under the Animals for Research Act, which excludes the OSPCA from entering the research or supply facility, this exemption should be removed.

Research is one of the most important areas to expand the protection of animals since animals in research are specifically subjected to acts of cruelty. Research involves burning; gassing; ingesting large doses of toxic chemicals; subjecting them to high doses of radiation or industrial, agricultural or environmental pollutants; starvation; force-feeding; breeding animals with specific illnesses such as asthma or renal failure; subjecting them to pain; sensory deprivation; and depriving them of their mothers. If any individual under this new amended bill enacted any of these experiments, they would be charged under the expanded powers of this act. So there is a double standard that institutional cruelty is okay, but individual acts of cruelty are not.

Since the province is looking to expand the powers of the act and protect animals and has recognized that it is a right for animals to be protected in the province of Ontario, we ask that you look at all the legislation that regulates the treatment of animals, and, specifically, elevate the level of protection animals are afforded under the Animals for Research Act.

1010

The OSPCA is complaint-driven; however, under the exemptions, there is no independent body for an individual to lodge a complaint against a researcher, technician, peer-approved experiment, lab or supply facility. The Animals for Research Act is voluntary. It prescribes that facilities should follow the guidelines of the Canadian Council on Animal Care; however, again, that is voluntary. I've been in a research facility that knew that there was a scheduled appointment with the CCAC, and they spent a month cleaning up the face of that research facility so that they could get approved.

Also, any researcher or any student at a veterinary college who wants to speak out against animal cruelty is really prohibited by the institutionalized status quo. Their careers can be ruined. There is great pressure among colleagues not to respond. In fact, the peer review committee is voluntary; however, if you want your research approved, then you better approve your colleague's research. So it makes it very difficult. I've spoken to researchers who have had their careers destroyed at a research facility because of speaking out against cruelty to animals. I've also spoken to students who have actu-

ally taken the alternative program, and faculty members have denigrated them and given them lesser grades, which have been appealed. They make it very difficult for students to function under the alternative program.

There is also a desensitization that occurs on day one of veterinary school, which makes it very difficult for individuals who go through that process to detect pain and suffering in animals. In fact, acknowledging signs of depression, boredom, anxiety, fear and other emotions in animals is considered anthropomorphizing and is a cause for shame and disfavour.

The new section 21 of the act provides that in the event of conflict between the act or a regulation made under it and a municipal bylaw, the provision that affords the greater protection to animals prevails. Environment Voters asks that this same condition be applied to provincial acts or regulations that govern the use of animals, including animals in research.

There needs to be some independent body to which a whistle-blower can turn. There needs to be protection under the OSPCA Act for those who speak out against institutionalized cruelty to animals, including animals in research. There needs to be a way to address cruelty, and the animal research industries must be held accountable for their treatment of animals. In addition, there must be closer examination of the benefits of proposed research studies using animals, and these must be weighed against the moral and ethical considerations of the welfare of animals.

There needs to be a body that enforces the currently voluntary three Rs: refinement, reduction and replacement. There must be an independent body that can encourage the use of alternatives to animal testing and challenge the belief that animals need to be used. There needs to be a body that can stand up for the social, psychological and physical well-being of animals used in research.

John J. Pippin, MD and senior medical and research adviser for the Physicians Committee for Responsible Medicine, states that "for every instance where they're using live animals, there are methods that can be used instead that would provide either equivalent or superior educational value."

Researchers at the University of Toronto reviewed 76 prestigious animal studies, originally published in journals such as *Science* and cited in 500 other papers, to see if these studies have resulted in better human care. But despite these animal studies, only eight of the studies resulted in improved drugs for humans. That's a mere 11%. Despite the prestigious journals in which they originally appeared, less than half of the 76 animal studies were weighted as having a good methodological quality. The authors warn that even the very limited success rate of 11% was likely to be overestimated, because they examined only highly cited studies featured in very prominent journals.

The Acting Chair (Mr. David Zimmer): Three minutes.

Ms. Karen Levenson: Okay.

They conclude that patients and physicians should remain cautious about extrapolating the findings of prominent animal research to the care of human disease.

In April 2000, a study published by the US watchdog group Public Citizen reported that an estimated 100,000 Americans die every year from adverse drug reactions to medications that are tested on animals.

The report *A Spoonful of Sugar*, which the Audit Commission published in 2002, revealed that human deaths attributed to adverse drug reactions have increased more than fivefold in the UK.

In Germany, according to a scientific study, 16,000 people die every year from adverse drug reactions.

We all want to see real benefits in ending human disease, but we believe that these advances must be made depending on the advancement of biological technology relevant to research techniques that are modern and do not use animals.

I ask that you follow the lead of the European Union with regard to banning cosmetic testing on animals and recognize the limitations of animal testing in advancing scientific and medical knowledge and human health. For Ontario to be truly progressive in regard to animal welfare, it must challenge the use of animals in product testing and using animals in research on illness and drug development. Expand the areas of cruelty to include unnecessary research or use of animals in research that is not biologically relevant and that cannot guarantee applicable results for humans.

To paraphrase Mahatma Gandhi, the level of advancement of civilization is reflected in how it treats its animals.

Any questions?

The Acting Chair (Mr. David Zimmer): You've got about 10 seconds left, so I'll use it to thank you for coming and presenting to the committee.

CITIZENS FOR COMPANION ANIMALS

The Acting Chair (Mr. David Zimmer): Committee members, we're going to go to our 10:45 agenda item, Citizens for Companion Animals, and hear from them next.

Welcome to the committee. You will have 15 minutes. I will give you a three-minute warning toward the end of your submission. You can use all of the 15 minutes or leave time for questions from the committee members if you wish. Please identify yourself for the record.

Ms. Mary Shepherd: I am Mary Shepherd. I am representing Citizens for Companion Animals.

I wish to thank the Chair and the committee for your work on Bill 50 to bring about positive changes for the animals in Ontario. You are to be commended for responding to the expectations of the majority of citizens in this and every community in Ontario.

My presentation will support the concepts in Bill 50 and encourage you to continue to press for positive change, highlight strengths within the bill, offer recommendations that will set Ontario apart as a leader in

addressing the issues of animal welfare, and examine in many contexts the changing values around animals.

As an educator, vice-principal, classroom teacher and teacher specialist, I was expected to model compassion, care and respect for the environment, all people and animals. Curriculum includes teaching children about animals and their habitats. We expect our schools to help children grow into adults who are responsible, thoughtful decision-makers.

It is this generation that will look at what is accomplished here and be proud of or dismayed by the result. Students are becoming increasingly informed and concerned about their environment, and animals are at the forefront of these concerns. Many children are choosing to become vegetarians without any influence from their parents. Few children brag anymore about going hunting.

1020

Citizens for Companion Animals was the organization instrumental in creating the first-ever task force in London to review and improve how animals are treated in this city. As co-chair of this task force and a member of the advisory committee resulting from it, I have watched attitudes and values change dramatically in this city. Around the world, in Canada, which prides itself on its approach to humanitarian issues, and in Ontario specifically, animals have suffered long and suffered enough. They have no one to speak for them except those of us who care. Caring, however, has never been enough, not enough to prevent horrendous acts of cruelty, neglect, and abuse, and certainly not enough to see those responsible for these acts receive consequences that speak to the depravity of their crimes. Attitudes, values, and beliefs have changed.

The Michael Vick story saw international public outrage like never before. And yet, out of all the horror and because of Best Friends Animal Society seeing this as a chance to challenge traditionally held beliefs about rehabbing such brutally trained dogs, amazing stories are happening every day for these animals. They and the people working with them are proving the disbelievers wrong.

Treatment of animals is no longer an animal-rights fanatics' issue. This is now a mainstream societal concern. How can Ontario not pass a bill that offers increased protection against intentional acts of cruelty when the majority of citizens have voiced their desire to see animals better protected and those who inflict suffering on any animal prosecuted aggressively?

The University of Toronto and Queen's will join at least six other Canadian universities that teach courses about animals under the law. Distinguished lawyers Clayton Ruby and Leslie Bisgould were allowed by the Supreme Court to intervene in a case on behalf of several animal rights organizations. Ms. Bisgould says that the tide has turned and people are saying that animals are important. Family law is beginning to speak about animals as a special kind of property. A McGill law student states that animals are beings unable to represent themselves and it's the best job a lawyer can have.

In the United States, Duquesne University, recognized as a school of leadership and professional advancement, has partnered with the Humane Society University to offer a bachelor of science degree in humane leadership, a graduate degree in organizational leadership, and six programs of certification: humane law enforcement, executive leadership, humane education specialist, pets for life, volunteer management, and certified advocacy management specialist. All of these university level degrees and diplomas are about animals—people choosing careers that will bring about positive changes for animals.

That animals matter is indisputable. What happens to them matters, and what happens to anyone who mistreats, abuses, neglects or kills them matters to a whole lot of people. While Bill 50 is a beginning, and a decent beginning, it leaves gaps that need to be addressed if we are truly to demonstrate that we have moved to a level of care and compassion that society now demands.

One issue I want to address that may not fall under this bill but most definitely needs to be dealt with is, please ban or declare illegal the declawing of cats. This mutilating procedure is banned or illegal in 24 countries and a number of states in the United States. If this committee has any authority over this painful mutilating procedure, then please do the right thing and ban declawing or make it illegal once and for all.

The section of this bill that addresses dogfighting is quite comprehensive. Having said that, additional recommendations would be an improvement. The state of Georgia in 2008 decided that anyone even watching a dogfight shall be subject to criminal prosecution. It is important that every single person who has anything to do with participating in, promoting or gaining financially from dogs fighting should be prosecuted.

This committee should create as many sections as needed to address any and all possibilities and to attach the most severe penalties possible to this section of Bill 50.

In addition, it should be spelled out clearly that the use of other animals—such as kittens, rabbits, small dogs—as bait to train a dog to fight must be viewed as a serious breach of the dogfighting legislation and will result in prosecution.

Other than attending to maximum penalties, sentencing is left to the judge's discretion. We expect that their training and experience will lead them to decisions that are fair and reasonable. It has become clear that where animals are concerned, additional judicial training must be made mandatory, as judgments have come down that are an embarrassment to this province.

Jesse Power took a small grey and white cat, now known as Kensington, from Kensington Market in Toronto. He put a noose made of wire around its neck and hung it from the ceiling. Along with two friends, they repeatedly stabbed this cat as it howled in agony, and then Mr. Power slit its chest open. He videotaped this act. This savagery went on for four to five minutes before the

cat died. Hardened police officers cried when they watched the video.

Judge Ted Ormston's finding was that Mr. Power did not intend for the cat to suffer; he only intended to kill it. Mr. Power received a 90-day sentence served on 16 consecutive weekends, an 18-month conditional sentence, and three years' probation, during which time he was not to have any animals.

Upon review, Mr. Justice David Doherty stated that there was nothing in the video or in Power's subsequent conduct to suggest that he did not fully appreciate and relish in the cruelty inflicted upon Kensington. Judge Doherty also scorned the defence psychiatric report, which was supported by Judge Ormston, that the cat project was an artistic venture. Even Power admitted that he didn't know if he would use the video in an art project. Judge Ormston said that it wasn't the worst way the cat could die. Judge Doherty disagreed. He said it was the worst because of the cruelty.

Power's buddy, Anthony Wennekers, received 21 months' jail time; 10 months had already been served. Also, he received a three-year probationary period during which he was not to own an animal.

The real problem, stated by Judge Doherty, may well be that the present six-month maximum penalty for cruelty to animals is inadequate.

Laura Avery was convicted of failing to provide for her cat when it was full of maggots, with lumps under its chin, and they were decaying. The cat was dehydrated and thin, and was euthanized. She received 12 months' probation, two years' prohibition from owning animals and 45 hours of community service.

Here in London, a man put a cat in a cage, put the cage in his bathroom, and allowed it to starve. Death did not come quickly. When an investigator was called, the cat had to be euthanized immediately. The sentence: limited time served on weekends.

I respectfully suggest that part of the problem may be the personal biases that judges like Judge Ormston bring to the courtroom. Crown attorneys and judges must be instructed about animal issues.

To ensure that crown attorneys throughout the province are prosecuting cases and seeking penalties that accord with the expectations of the people of Ontario, including all special interest and animal rights groups, Bill 50 should mandate the formation of a permanent advisory committee to assist the minister with all aspects of administering this statute. The committee would be comprised of members from government, the public sector and the various special-interest animal groups. The job of the committee would be to provide policy recommendations based on its research and investigation to the minister to assist him or her in administering this statute.

The Acting Chair (Mr. David Zimmer): There are three minutes left.

Ms. Mary Shepherd: Thank you.

This government has an obligation to contribute to salaries paid by the OSPCA, its branches and affiliates. It

is no longer appropriate for these organizations to have to rely on charitable donations while being given more powers and expected to carry out additional responsibilities.

Warrantless searches are critical if investigators are to catch dogfighting rings in the act. These participants quickly disperse while a warrant is being prepared.

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In addition to these comments, it is important to speak about those segments of society exempt from Bill 50 but who still feel it is necessary to try to influence the outcome of this proposed legislation. It is clear that the people objecting to moving forward have a vested interest in the business of animals. Why are researchers, hunters and farmers so concerned about Bill 50? What possible reason could they have, other than to maintain the status quo and continue to exploit animals for business and sport?

In conclusion, at this time in our nation's history, it's a good thing to be part of the animal rights movement. This movement engenders people from all socio-economic backgrounds, those with numerous university degrees and those with none. The male gender is now well represented, as are the young, middle-aged and old. No longer is this a little old woman's story.

Bill 50 has the potential to bring Ontario into the limelight of positive media coverage. Societies around the world are watching to see which country, province, state or municipality will set standards around the treatment of animals. Animal issues and rights are being examined from many perspectives, and the majority of citizens in Ontario are speaking out for the animals. We are the animals' voice, the voice of understanding and respect, of commitment, care and compassion.

The Acting Chair (Mr. David Zimmer): There is no time for questions, so thank you very much for your presentation and taking the time to come today.

SCOTT THIBAudeau

The Acting Chair (Mr. David Zimmer): We're now going to do the 10:30 slot, Scott Thibaudeau. There are 15 minutes. I'll give you a three-minute warning towards the end. Could you identify yourself for the Hansard record?

Mr. Scott Thibaudeau: Good morning, Mr. Chairman, ladies and gentlemen of the committee. Thank you for providing me with the opportunity to speak to you this morning about Bill 50.

There is no doubt in anyone's mind who sits in this room or in any other part of the world that—

The Acting Chair (Mr. David Zimmer): Sorry, are you here in your personal capacity or on behalf of an organization?

Mr. Scott Thibaudeau: I'm here in my personal capacity.

There is no doubt in anyone's mind in this world that acts of cruelty cannot be tolerated—intentional acts of cruelty.

The legislation that you're being asked to draft and propose is looking at expanding the powers under the OSPCA Act in Ontario. I've provided you with a copy of the Manitoba Animal Care Act. In your considerations and the drafting of your legislation—and I apologize; this isn't the most up-to-date version; it's from 2007. That's the one I had available to me this morning. It provides some specific, important definitions that are lacking in the present legislation in Ontario. Specifically, I would ask you to look at section 2(2) of the act, which states:

"A person shall not be convicted of an offence under subsection (1) for treating an animal in a manner

"(a) consistent with a standard or code of conduct, criteria, practice or procedure specified as acceptable in the regulations."

In the present-day legislation in Ontario, what is substantially lacking are regulations. I would ask that the committee, in formulating the bill, research the various—for example, the Canadian Kennel Club code of conduct. Additionally, in northern parts of Ontario where conflict has come into regulation, there's a code of conduct for snow dogs and a musher's guide.

The problem from a practical point of view in the present-day legislation is that a lot of the terms and what constitutes "distress" are not defined. It's left solely to the discretion of the investigating officer, who at present is from the OSPCA. The SPCA, while its intentions and meanings are truly justified, is nonetheless a special interest organization whose objectives and goals may fall into conflict with other recognized organizations and institutions or groups in the province.

In a free and just democratic society—as Ontario, as part of Canada, is defined as found in the charter—there has to be an equal balance placed in the interpretation of legislation to create legislation the focus of which serves all persons, not specifically one.

The definition of "infliction of suffering prohibited" found in the act I would also ask the committee to consider in its drafting of the legislation. "No person shall inflict upon an animal acute suffering, serious injury or harm, or extreme anxiety or distress that significantly impairs its health or well-being." In the present legislation as it stands, it is not defined, and leaves sole discretion to that of the investigating officer.

The enactment goes on and places "acceptable activities," which are defined by regulations in section 4. When you compare the regulations, as compared to the Alberta and BC legislation, the regulations are extensive. They create a concise, clear, cohesive definition and acceptable path of conduct which people, in following the law, must have. The law cannot be so sufficiently vague as to leave people without the terms of reference upon which their care and conduct are to be judged. The present legislation that this Bill 50 seeks to replace is such legislation. It's sufficiently vague that it provides, in the abstract, a few relative and loose terms.

I'd ask the committee, in moving forward, in moving Ontario to the forefront with its legislation, first to consider additionally that the Supreme Court, in a number of

circumstances, has indicated that warrantless searches are, *prima facie*, unreasonable. The right to privacy of individuals, and individuals whose interests may run contrary to the OSPCA, is paramount. It cannot be easily waived. There have to exist reasonable sets of circumstances that would convince a justice of the peace, acting impartially, that these types of distress are founded and are actually present and worthy of investigation before the privacy that we all treasure in our own homes is so freely given away to another entity or body that may have a conflicting form or opinion and may come onto your property.

The act that I have placed before you clearly specifies that an activity under 4(2) is an accepted activity under subsection (1) only if it is carried out in a manner that is "consistent with a standard or code of conduct, criteria, practice or procedure specified as acceptable in the regulations." That brings us back to perhaps the comment of the last speaker before you. I'd ask you, as members of this committee: If a vet who actually performs the declawing of a cat believes that is an inhumane practice, would that not violate their code of ethics and conduct? However, if a vet, who is licensed by this province, believes that it's a practice or procedure prescribed in their training, then how can it possibly be cruelty?

Similarly, a lot of jurisdictions in our province prescribe and allow for the hunting of vermin or varmints such as coyotes.

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A lot has been said about hunting. If a regulation or an act provides for it, as our hunting regulations and bylaws in a lot of rural municipalities do, and procedures are spelled out and prescribed for how the hunts are to be conducted, then how can that be cruelty? This type of legislation, where the regulations would be constructed so as to show that there are acceptable and allowable areas of conduct, would remove the sole discretion from the investigating OSPCA officer—as long as they're carried out in accordance with those terms found within the regulations which your legislation would draft.

Under section 6 in the legislation—so many times it's been heard: "An animal is in distress." Subsection 6(1) goes on for the purposes of the act and defines it in clear, concise terms:

"(a) subjected to conditions that, unless immediately alleviated, will cause the animal death or serious harm;" that doesn't mean that when the inspector walks in and finds that a water dish is empty at that particular time, the animal is effectively in distress.

"(b) subjected to conditions that cause the animal to suffer acute pain;

"(c) not provided food and water sufficient to maintain the animal in a state of good health."

These are common sense. This legislation is very common sense. I would ask this committee to look into what sometimes becomes lost in legislation: common sense. This is clear to people. It's concise. The regulations created to enforce this should be so too constructed and worded as to provide people with what is

necessary to comply with the terms of the act. We don't have that at present in Ontario.

The act goes on and affords what this legislation currently does not. It also provides an animal protection officer the power with which to stop a motor vehicle. Again, the authorities, the legislations, naturally flow with one another, hand in hand. They balance the approach, so that people aren't left to guess at where the power of the enforcement agency ends and exceeds the person's individual rights and care and protection of their own animals.

The Acting Chair (Mr. David Zimmer): Three minutes.

Mr. Scott Thibaudeau: Thank you.

This legislation goes on to say in subsection 8(8), "A police officer may take any action authorized under subsection (5) or (7) without a warrant if conditions for obtaining a warrant under subsection (5) or (7) exist but, by reason of exigent circumstances, it would not be practical...."

The legislation protects the interests of the animals, that where animals are in immediate distress and immediate care is needed, that power is given to enter. That is important in the legislation. As the previous speaker has said, too often when a warrant is sought, people flee. If there's an exigent circumstance that exists, which is defined in the regulation, they can enter to protect the animals that are in danger. The intent of the legislation is to protect animals, and that is important, ladies and gentlemen.

I'd ask you to balance the need of protection—that it be compliant with the Charter of Rights and Freedoms, and that legislation being put forward would afford a balanced approach, so that individuals are not subject to the will of individuals who may have a specific interest over and above the interests of the individual. Cruelty in this day and age is unacceptable, whether it be to an individual, an animal, or any other thing in this world.

Does anyone have any questions?

The Acting Chair (Mr. David Zimmer): You've got about three seconds left, so thank you very much for presenting to the committee today, and thank you for the effort you've put into your submission.

Mr. Scott Thibaudeau: Thank you.

Ms. Cheri DiNovo: On a point of order, Mr. Chair: I'm just wondering if you could explain to the deputants that—we've heard from three now, and we haven't been able to ask any questions. Perhaps you could explain to the next one that if they leave some time in their 15 minutes, then we can ask them some questions.

The Acting Chair (Mr. David Zimmer): Yes, I've done that, but I'll make that exceptionally clear.

ANIMAL OUTREACH STRAY CAT RESCUE

The Acting Chair (Mr. David Zimmer): We are now going to hear from the 11 o'clock slot, Dianne Fortney of Animal Outreach Stray Cat Rescue. Ms. Fortney, you will have 15 minutes. I'll give a three-min-

ute warning as you approach the limit. But if you want to enter into a question-and-answer exercise with the committee members, you should leave as much time as you want for that, if that's what you want to do.

Ms. Dianne Fortney: Thank you very much, Mr. Zimmer.

The Acting Chair (Mr. David Zimmer): And if you would identify yourself for the Hansard record.

Ms. Dianne Fortney: I am Dianne Fortney from Animal Outreach Stray Cat Rescue.

Mr. Chairman, members of the committee, ladies and gentlemen, today I speak to you as an animal rights extremist, a terrorist, a fanatic. Oh, those are the names that other people call me—people whose livelihood depends on their ability to use animals as they see fit without interference, people who derive pleasure from stalking and killing animals. What I actually am is a registered nurse, a widow who raised a daughter who is now in university, and a person who cares deeply about the suffering of all animals, human and other.

I work in one of the busiest emergency departments in all of Ontario, with one of the most vulnerable populations in our society, psychiatric patients. I also work with the London police department on their mobile crisis response team. I am a contributing member of my community, and I have never been in jail.

Five years ago, I co-founded Animal Outreach Stray Cat Rescue, a registered not-for-profit charity. Since we started, our group of volunteers has rescued and rehomed over 700 cats from the streets. As in all urban centres, London's homeless cats are in dire straits. Cats are not an indigenous wild species. All stray and feral cat populations have originated from humans who were either callous or irresponsible.

Since starting this charity, I have been struck by two things. First, the vast majority of our society is comprised of people who are compassionate, with a sense of fairness and integrity. In London, there are hundreds of people helping stray cats, volunteering their time, their financial resources, and their emotional energy to help alleviate these cats' suffering. Secondly, there is a segment of our society that has not made the connection between human and animal suffering. These people abuse animals, and often people, with no regard. Kittens are drowned, dogs are chained and dragged behind cars, cats are killed in microwaves, puppies are burned, and animals are beaten, starved, and forced to fight each other to the death. Women and children are trapped in abusive relationships out of fear for their pets' safety.

Our current legislation is woefully inadequate to help these animal victims, to hold the perpetrators accountable, and to prevent the recurrence of these horrific incidents.

1050

A society that condones suffering diminishes itself. In reality, a lack of effective measures to limit the suffering of animals colludes with the perpetrators of these abuses.

People are appalled when stories of animal cruelty are publicized in the media. Time and time again, animal

abusers are free to reoffend after a few short months, and the public is outraged.

Current conversations at workplaces, schools and social gatherings are full of questions: "How can people do these things? Why don't we do something? What is our government doing? These people get a slap on the wrist. I couldn't sleep last night, thinking about these horrible things. When are we going to change?"

The current laws severely hinder the OSPCA's ability to carry out their mandate to protect animals. Bill 50 is a step toward remedying this situation. The opinions and desires of members of the community who do not have a vested interest in using animals should be given more weight than those in the animal industries. How can anyone in good faith object to more compassionate treatment of animals?

The people of Ontario and their government believe that how we treat animals in Ontario helps define our humanity, morality and compassion as a society. We recognize our responsibility to protect animals in Ontario. I urge this committee to stand behind these noble words. Please pass a strong and effective bill. Help Ontario to a more humane treatment of the animals with whom we share this planet.

The Acting Chair (Mr. David Zimmer): We have eight minutes left for questions, and we'll start with the NDP. Ms. DiNovo.

Ms. Cheri DiNovo: Thank you for deputing, and thank you for your impassioned words and the work that you do.

We have heard a number of deputants who are concerned about Bill 50 from an animal rights standpoint, people like the Toronto Humane Society, which has a euthanasia rate of 6% versus the OSPCA's euthanasia rate of 50% plus. They're concerned that this bill gives too much power to the OSPCA and, included in section 6, takes away their right to call themselves humane societies. Our interest, in the New Democratic Party, is to make this bill stronger so that it protects more animals and that it does it in a fair and equitable way.

Just to let you know, the way the bill is written can be problematic. There are certain classifications, for example, of animals that aren't covered. Zoo animals are not covered by this; they're not mentioned once. It has been pointed out that animals in research facilities are not covered by this bill. The last deputant brought forward another act that is much more specific in terms of helping animals.

In light of that, and having read Bill 50 in its entirety, in particular we're concerned about section 6, which has nothing to do with animal rights but says that humane societies can't use the word "humane" in their titles, which de facto would strip all humane societies in Ontario, over 200 of them, of their names. They're volunteer organizations. They're not funded by government money, like the OSPCA is: \$7.5 million over two years. Would you be in support of the humane societies keeping their names?

Ms. Dianne Fortney: I certainly cannot offer an expert opinion on section 6 of the bill. I understand that it is problematic, and I understand the concerns of the humane societies. I certainly think a very strong bill can be passed that would address issues of more compassion toward animals, while perhaps revising the problematic section 6.

I would like to speak to some of the comments made by the speaker before me. It's interesting and actually rather disconcerting to me that people whose practices with animals will not be affected by Bill 50 are coming out in full force to ring a bell of alarm about any kind of change. I'm speaking about hunters and people who use animals in agriculture and research. To my understanding, their practices will not be interfered with by Bill 50. I wonder why they are speaking out in full force. I find it very disconcerting when there is a segment of our population, and by far not the majority, whose voices are so loud to prevent any kind of a step forward when certainly anyone who picks up a newspaper or listens to the radio is very aware of the concern of the community at large—concern that in Ontario we are working with legislation that is hundreds of years old and in fact is not protecting animals.

The Acting Chair (Mr. David Zimmer): We're going to move to the Liberals now. Mr. Colle.

Mr. Mike Colle: If I may call you Dianne?

Ms. Dianne Fortney: Yes, please do.

Mr. Mike Colle: Thank you very much for the work that you do.

I know the opposition parties are trying to have it both ways. One of the things that they are objecting to is the increased power given to the OSPCA, especially in terms of warrantless entry. Right now they have to go before a judge, see if the judge will weigh the evidence, whether he'll even hear the presentation of the officer to inspect, for instance, a dog-fighting venue. As you know, they're all over this province and they're legal right now because we don't have any legislation. The opposition is saying that this warrantless entry is not necessary because it takes away rights. What are your feelings about the warrantless entry powers given to animal control officers?

Ms. Dianne Fortney: I am certainly a person who is very interested in protecting rights and civil liberties. I am also aware that innocent creatures, whether they be animals or children, also have rights. It is society's duty to protect the rights of parties that may not be able to speak for themselves. If an OSPCA officer needs to get a warrant for a dog fight, which often would not be taking place during normal business hours—my suspicion would be that since these are rather clandestine, they would be in the evenings or on weekends or whatever—by the time the warrant is obtained, word has gone out, the dogs are dead, the people have left. I trust that we will put faith, training, education and money into the OSPCA officers so that they are competent and adept at their job. So I am in favour of warrantless searches.

Time and time again through my profession I have heard terrible stories of what people have done to animals

and of people who have been traumatized by other people's abuse of animals. It's common knowledge that our legislation has no teeth, although I hate to use that metaphor. It is common knowledge in the general public that they cannot depend on our laws to protect their animals or to protect them if they have a concern for their animals.

Mr. Mike Colle: Just in connection with the work that you do, dogs are given a great deal of attention but cats and kittens are sometimes our forgotten friends out there. I was in a courtroom at Toronto city hall when Judge Ormston deliberated over the Power case.

Ms. Dianne Fortney: Yes, that was horrific. I was there also.

Mr. Mike Colle: As you know—

Ms. Cheri DiNovo: On a point of order, Mr. Chair: I just wanted to object to the characterization of the opposition being against warrantless searches. Certainly the New Democratic Party is not against warrantless searches if the case warrants it. It would be the same for firefighters, for—

Mr. Mike Colle: That's not what you said yesterday.

Ms. Cheri DiNovo: That's not correct.

Mr. Dave Levac: On the same point of order, Mr. Chairman—

The Acting Chair (Mr. David Zimmer): Hold it. That's not a point of order, so Mr. Colle, back to you. You were in the middle of a comment.

Mr. Mike Colle: I didn't recognize you at the time in the city hall courtroom, but I think that that case did demonstrate—although the penalties weren't as severe as the situation warranted, it did give a lot of people a great deal of hope because there was just such public outrage and such public concern that for the first time there were court proceedings that took a case seriously, because—

The Acting Chair (Mr. David Zimmer): And on that note we'll have to stop. You've used your time.

Mr. Mike Colle: That's all right.

The Acting Chair (Mr. David Zimmer): Thank you very much for organizing your presentation and taking the time to attend today.

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DAVID ENNIS

The Acting Chair (Mr. David Zimmer): Committee members, we'll move to the 11:30 slot now, Ron Lounsbury.

Interjection.

The Acting Chair (Mr. David Zimmer): I'm sorry, 11:15, David Ennis. I didn't realize that you had arrived. My apologies. So here's the drill: You have 15 minutes; I'll give you a three-minute warning just before your time is up. But if you want to enter into a question-and-answer exchange with the members, you'll have to leave whatever time you want at the end; that is, not use up your entire 15 minutes. Okay?

Mr. David Ennis: I appreciate that.

The Acting Chair (Mr. David Zimmer): And if you would identify yourself for the record.

Mr. David Ennis: My name is David Ennis, and I'm here today as a private citizen.

Good morning, folks. It's a pleasure to see you. I want to thank you for the opportunity to speak with you today. I'm speaking as a citizen, but I believe that nobody comes to the table without bias that arises from their personal and professional experiences. To that end, I want you to know that I'm an elementary school principal. I also serve as the chief voluntary officer of a charitable organization called Pawsitive People whose mandate is to teach children social skills through positive experiences with companion animals. If time permits, I'll be glad to chat about that more. I also grew up as a farm boy and my education and my career were financed through income from farming. So an interesting cross-section there.

From these experiences and my exposure to the media and my general reading, I have observed some significant changes in our society over the last number of years and I want to draw them to your attention.

First, we talk a lot about global warming and our carbon footprint, which I believe is too narrow an image for our challenges. I believe that we must think in terms of our ecological footprint, which I would suggest includes all human activity and its impact on the planet. Some examples are overpopulation, over-consumption and the effects of extreme wealth and extreme poverty on our quality of life, including animals.

A second lesson I've learned over the last number of years—this is mostly from my elementary school experience—is the bell curve. Remember the bell curve? I believe it is changing shape from the typical curve about human society and now it's becoming a flattened W—it looks like this. We have at one extreme a large population that is exceptionally talented and committed to creating a better future. I see those children in schools; if you saw them, you would be inspired. At that end, as they grow up, they become the Nelson Mandelas and the Al Gores in life and they do wonderful things. At the other extreme, we have a large population that has completely disconnected from society and poses a great threat to our general welfare. At the extreme end we have people like Paul Bernardo and perhaps we might add on Jesse Power. In the middle is a group that is the flatter part of the W and it is a group that is simply looking for direction and it will shift, in my view, to the dominant population.

The single attribute that I see that makes a difference in these three groups is empathy. The strong, positive group has a natural affinity for empathy; the strong, negative group is devoid of empathy; and the middle group is seeking direction.

In my view, while Bill 50 is fundamentally about creating anti-cruelty legislation, I believe its implementation must be about developing empathy in a population that suffers from too much reality TV and road rage, while stomping about creating an increasingly heavy

ecological footprint. None of us is without some blame but many of us want to help.

I've learned, again as a principal, that government ministries tend to work in isolation and I have learned—resentfully—that when any ministry gets a great idea, it seems to be fair game that our schools are given a heavy burden for getting the message out to society's children. It will come as a surprise to you, then, that I suggest that when the act and regulations are completed, you do all you can to make connections between the welfare of animals and the Ministry of Education's current character development initiative. In other words, bring it on to the schools. This time I forgive you.

I would also suggest that any action that would empower local animal support organizations—you've heard some of these representatives today. Any action that would support them to make a greater collaborative contribution on behalf of animals would be a significant step in the right direction. As it stands now, there is no role for them in this bill. They can be an excellent resource; find a way if you can, please.

More to the details now, I hope you will address the following issues.

Reporting abuse: This again comes from my elementary experience. I find the phrase "reasonable grounds to believe," which permeates the bill as it stands now, is problematic, as people will struggle with the interpretation of the word "believe" and will hesitate to report. This was the original phrase in the Child and Family Services Act. It was later changed to "reasonable grounds to suspect," and it got results. Take it to mind, please, from that experience. I recommend you change that phrase to the same as we have in the Child and Family Services Act on reporting child abuse, same for animals.

I have cautious support for organizations that enable animals to play a role in educating people; that is, animals who are living in a natural environment supported by educational programming that defines their needs and explains how we must manage our ecological footprint on their behalf. This develops empathy and is critical for a healthy and sustainable future for all.

I do have a serious problem when animals are used for entertainment. The likelihood of developing empathy is greatly reduced, and the risks to animals are greatly increased. In this regard, the legislation as I see it is weak in the following ways:

Its authority in relation to other provincial legislation regarding animals is not defined clearly enough for me, doesn't stand alone and doesn't supersede any or all acts.

Clause 11.2(6)(c), the whole section on exemptions for "animals living in prescribed circumstances or conditions," leaves out, in my view, zoos in general—and I would include Marineland, which I visited 10 years ago and have never gone back to; roadside zoos; circuses; standards of care and training practices in any of these settings; and hunting and trapping, farming and research.

If corporations, as defined in the bill, are what is intended for that whole category—the zoos, circuses and

so on—then the regulations must be comprehensive and clear, because as it stands now, they are not.

Finally, there are clause 22(1)(c), “prescribing classes of animals, circumstances and conditions or activities for the purposes of clause 11.2 (6) (c),” and clause 22(1)(d), “exempting any person or class of persons from any provision....” In my view, this buries the toughest challenges facing this bill with the Lieutenant Governor in Council, and therefore these key areas might not be addressed at all, in part or in whole, because the bill states that “the Lieutenant Governor in Council may make regulations,” not “shall make regulations.” If this is the case, isolated cases of animal abuse will be addressed through this bill, but institutionalized cases will not. In my view, that’s turning a blind eye to a lot of animal abuse and greatly undermines the potential of this bill.

I appreciate being given the opportunity to speak. I recognize this standing committee as part of the legislative step between second and third readings. I trust that the act and regulations that emerge will reflect legislators’ commitment on behalf of Ontario to create a more empathetic society with a positive ecological footprint. Thank you.

The Acting Chair (Mr. David Zimmer): Thank you. We have about three minutes per caucus, beginning with Mr. Levac for the Liberals.

Mr. Dave Levac: Mr. Ennis, thank you for sharing your experience as a principal. We share a commonality there; I was an elementary school principal. I garnered from your discussion today that a lot of that was gleaned from your observation, as an elementary principal and an elementary teacher, of how kids can teach us things.

Mr. David Ennis: Yes, primarily.

Mr. Dave Levac: The overall intent that you had is that there’s an arc that you’re creating inside of the regulation. You’ve captured it perfectly inasmuch as we will be doing an awful lot of consultation on the regulation side to ensure that what you’re talking about is covered off. I’m optimistic. Others may not be, but I am.

Mr. David Ennis: I recognize the regulations as ultimately where the action is. To that degree, my comments were directed towards the regulations.

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Mr. Dave Levac: Great. Having said that, the Lieutenant Governor in Council—those are always kind of generic comments that say “may make,” as opposed to “shall make.” It’s very rare that you’ll end up seeing “shall make,” as opposed to “may make,” because it’s a fluid circumstance to catch all those pieces that you’re talking about.

Your contribution here today is valuable inasmuch as a reminder of the overarching expectation of including the empathy that you’re talking about. I can assure you that with my discussions with the staff, with the people and the stakeholders, it’s quite clear that that’s the overall intention of what the bill is all about. I appreciate your presentation today.

Mr. David Ennis: Thanks for the clarification.

The Acting Chair (Mr. David Zimmer): Thank you. Mr. Dunlop?

Mr. Garfield Dunlop: I have no questions.

The Acting Chair (Mr. David Zimmer): Ms. DiNovo?

Ms. Cheri DiNovo: Thank you, Mr. Ennis, for that. Certainly, we in the New Democratic Party would ring with what you say.

One of the concerns that we heard from deputants earlier yesterday was that the OSPCA would sometimes, because there’s no oversight of that body and no appeal process, take their healthy and loved animals away on the neighbour’s say-so, or because some neighbour complained about a dog barking, and there was no appeal process for them. We heard a couple of real horror stories about animals that were cared for, and the problem that they had in getting them back and clearing their name and everything else. What sort of oversight would you see as a possibility for OSPCA or an appeal process for those who feel that their pets are okay, and that they’ve been targeted by this body that, as I say, doesn’t report to anybody right now, it seems?

Mr. David Ennis: That’s a tricky one. I’m not sure I’m the most qualified to respond. I do know that in your legislation there’s reference to an animal review committee. Perhaps it could be processed that way. The lack of direction, I promise you, will cause failure; I can promise you that.

I think if you keep asking the question from people who have particular expertise not congruent with mine it will give you enough feedback. Clearly, building in an intelligent process will avoid us having American-style yanking of rights from what we value in the Constitution to what they suffer with the Patriot Act. Building in an intelligent process that is fairly light of foot surely would be helpful. That’s as far as I’m prepared to contribute, because I don’t feel I have enough expertise.

Ms. Cheri DiNovo: No problem.

The other concern from the humane societies across the province and other animal rights groups about section 6 is the fact that the OSPCA has said, “We get to use the word ‘humane’ and you don’t.” I was just wondering if you had thought about that at all or had any comment.

Mr. David Ennis: It looks like it’s fairly problematic. I’ve read in the newspapers the opinions that the Liberal Party has attached itself too strongly to the OSPCA; perhaps yes, perhaps no. It seems to me, above all, that you make a determination, fund it, and then you have the right to direct it. Then you will not have the problem to remove groups.

Someone will deal with that. It certainly won’t be from my opinion. I’m the one who’s saying, “Don’t forget the animal rescue groups who do things for nothing who are looking to work in a more collaborative forum.” The more involved you’re going to have people, the better, but ultimately, the regulations will have to determine the line of authority.

Ms. Cheri DiNovo: Thank you. I really appreciated your concern about zoo animals and research animals not included in this bill.

The Acting Chair (Mr. David Zimmer): Thank you very much for organizing your presentation to the committee today.

Mr. Dave Levac: Mr. Chairman, a point of clarification: For the information of Ms. DiNovo, there is an appeal process that's called the Animal Care Review Board, in case she didn't know.

Ms. Cheri DiNovo: I knew about it. I just didn't think it was an appeal process that was valid, so—

Mr. Dave Levac: Oh, I see.

Mr. Mike Colle: You don't know about it or you do know about it?

Ms. Cheri DiNovo: I do know about it.

RON LOUNSBURY

The Acting Chair (Mr. David Zimmer): We'll now move to the 11:30 slot, Ron Lounsbury. You have 15 minutes for your presentation. I'll give you a three-minute warning as you get to the end. If you want to leave time in your presentation at the end for questions and answers from this committee, bear that in mind; that's your choice.

Mr. Ron Lounsbury: Okay. Thank you very much.

The Acting Chair (Mr. David Zimmer): If you would identify yourself for the record.

Mr. Ron Lounsbury: My name is Ron Lounsbury. I live on a farm between Paris and Brantford. I'm only really objecting to one part of this particular bill. I feel that the SPCA does a good job protecting animals as it is and I don't see the need for large changes in it. They have done some very good work and they have some very good people there, with the laws that we have now.

What I'm particularly objecting to is what I understand are the increased rights of the officers on private property to enter and search without warrants. I could take up the whole 15 minutes giving you examples of extreme situations that happened, and one particular situation that cost me a lot of money. I object to that. We'll wind up with people who perhaps don't understand the situation. I should also add that I have had 50 years' experience training working animals. I have a farm. I have horses and dogs on it now; I have had cattle on it. So I understand it from the layman's point of view. I grew up in the agricultural industry.

What I'm particularly speaking of right now are hunting dogs and horses, but it does apply to cattle and poultry as well.

I had a situation where the humane society entered my property. I was away. I had a 10-year-old son there. They went through my kennel and found nothing. I arrived back two days later and found out what had happened, and two weeks later I was away at another field trial—I field trial hunting dogs all over eastern North America. I went away two weeks later on another trip. When the humane society went through my kennel, looking for who knows what, I didn't complain. I didn't know I had a problem until two weeks later, when I left to go to another field trial in the United States. I noticed that one

of the pups on the ground was ill. It didn't seem normal but didn't seem too bad.

I got a call from my daughter the next morning—I was in the United States—and the dog, the pup, had passed away. She said, "Two more are sick," so I said, "Get them to the vet." She got them to the vet. One died at the vet; the other one cost me \$900 to have it corrected. What I found out later is that whoever came through my kennel—they said they were the SPCA. No, they said they were the humane society; I'm sorry. They had brought parvo into my kennel. They came through my kennel; I wasn't home. There was no warrant. It wouldn't happen—pardon?

Interjection: Brought what into the kennel?

Mr. Ron Lounsbury: Parvo. It's a very infectious disease. It spreads very rapidly, and with young pups on the ground, they die within days. I wound up losing half the litter. I wound up with parvo the second year—I couldn't get rid of it. That was brought in by people coming in without a warrant, and, in my view, without a reason. They found nothing wrong with the kennel. Why they came there, I don't know. My neighbour had the same thing. They found nothing there. I have a next-door neighbour who has poultry. Obviously, everyone's heard about bird flu. People aren't allowed to come tromping through. Anybody who wants to come to my kennel, they ask, they get permission, and they're disinfected before they go in.

I have hunting dogs. I thought that parvo was mostly in the United States, that we didn't have it in Canada. I found out later that, no, it's all over Canada. And it's communicative. People are walking from farm to farm to farm to kennel to kennel to kennel, thinking they are doing some good, thinking that they're protecting animals, but what they are really doing is spreading disease. The same thing applies to poultry and swine operations.

So what I really object to in this is the right of entry of people from—and they could be volunteers. They could have the best intentions in the world but not really know what they're doing. That's my main objection.

The Acting Chair (Mr. David Zimmer): All right. We have about four minutes per caucus. We'll start with Mr. Dunlop.

Mr. Garfield Dunlop: Thank you very much. I appreciate you being here this morning.

I couldn't agree more with you on the point that you bring up. I have a brother-in-law who has a large hog operation, a swine operation, and that's the way it is on his farm. There are signs up everywhere, "Please do not enter," because they're afraid of someone carrying some kind of a germ into the barns that would cause massive deaths for the hogs. No one has brought that up yet at the committee hearings, that I recall anyway, and I think it's a point that we have to be really, really concerned about, because that's a good example of why the warrantless entry would be an issue.

That's really all I have to say on it.

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Mr. Ron Lounsbury: I might add that my property is posted. There are signs all over the place: "No Entry." They walked right through, checked all the kennels. Any time they want to check the kennels, they can check them. But they'd better not come there when I'm not around.

The Acting Chair (Mr. David Zimmer): Ms. DiNovo, about three and a half minutes or so.

Ms. Cheri DiNovo: Certainly we've heard other deputants who have animals, breed animals, love animals, who have had some real nightmare experiences with OSPCA officers.

Just for the record, I wanted to say that the New Democratic Party is not against warrantless searches per se if the life of the animal is in danger, as we would not be against warrantless searches if the lives of humans are in danger—any being. What we're against is the undue powers given to OSPCA agents and the OSPCA over and against other organizations that act in the interest of animals. So I really appreciate what you have to say. I appreciate your deputation.

Certainly there needs to be, we think, Ombudsman oversight of the OSPCA. This is an organization that gets taxpayers' dollars, and a lot of them—\$7.5 million over two years—as contrasted with volunteer organizations. We heard from the deputant before that volunteer organizations need to have more of a voice; I couldn't agree more.

Thank you very much, Mr. Lounsbury, and I'm very sorry for what you've had to live through.

Mr. Ron Lounsbury: The other thing too is, there is conflict in this legislation with existing legislation: the Bill of Rights, for instance, fish and wildlife sort of thing. That's the main concern. There is obviously the city situation, there's the country situation. Hunting is legal.

The Acting Chair (Mr. David Zimmer): Mr. Colle, about three and a half minutes.

Mr. Mike Colle: Thank you very much for your very thoughtful presentation and bringing this to our attention. The act basically exempts agricultural practices and exempts ongoing hunting and fishing and angling practices that exist. It doesn't enter into that area in a natural state or in a traditional agricultural state.

You mentioned the humane society entered your farm.

Mr. Ron Lounsbury: Yes.

Mr. Mike Colle: Which humane society was it?

Mr. Ron Lounsbury: Well, I don't know because I wasn't there. I had a 10-year-old son there. He told me that two or three people came in, they went through my kennel. He stood there and he watched. He didn't object; he's only 10 years old. They went through the kennel. I really had no objections at the time either. But two weeks later—and I found out from my vet after all this happened; I went through the vet—I found out that parvo has an incubation time of 10 days.

Mr. Mike Colle: No, but where did your puppies end up? Who took them?

Mr. Ron Lounsbury: They didn't take them. The puppies were on the ground and they left. They went through and obviously found nothing. I never heard from them. But then two weeks later, I was going away on a field trial and I noticed one was sick. I thought, "It's sick but it was fine yesterday" sort of thing, not thinking about parvo and how this reacts, because I'd heard horror stories about it in the States. So my daughter phoned me the next morning: The puppy was dead. I wound up losing half the litter, as it turned out, and it cost me \$2,000 in vet bills that year and about the same the second year before I got rid of it.

Mr. Mike Colle: But how do you know it was the humane society that—

Mr. Ron Lounsbury: Because they told him that's who it was. Two women and a man went through, they identified themselves as the humane society, and he said, "Oh, okay." So Danny watched them. They walked through and they checked all the dogs and they went all through the kennels and they left. I never heard—

Mr. Mike Colle: So they might not have been members of any humane society, then?

Mr. Ron Lounsbury: They might not. I don't know; I wasn't there. That's what I was told. Who else would do it?

Mr. Mike Colle: Again, I just find it very curious that they would go unidentified and—

Mr. Ron Lounsbury: Well, they identified themselves and I guess if I had been there, I would have asked for identification and I wouldn't have let them do it.

Mr. Mike Colle: Or they might have been misusing the name of the humane society.

Mr. Ron Lounsbury: Well, they could have been, but what it goes to is warrantless entry. That's what it applies to: people who walk through without a warrant. Now, if they want to come and talk to me, that's fine. I don't see any need for them to do it without a warrant. If you're doing something wrong, you can get a warrant to appear the next day and the evidence is going to be there.

Mr. Mike Colle: No, but the problem is that in many cases the humane society officers or the OSPCA officers can't get the warrants in time—

Mr. Ron Lounsbury: In time for what?

Mr. Mike Colle: Let's say there are dogfights taking place. You would have to go to a judge, see if the judge is available. It could be on a Saturday night. By the time you get a hold of the judge, the judge says, "Oh, I've got 20 criminal cases I'm dealing with." That's the problem. It's not so much the legitimate farmer. In fact, the act is very specific: "If an inspector or an agent ... has reasonable grounds to believe that there is an animal that is in immediate distress...." They're not going to just walk through your property and do a general investigation.

Mr. Ron Lounsbury: They did in my case.

Mr. Mike Colle: Yes, but you don't know who it was. It could have been some people who are off the wall.

The Acting Chair (Mr. David Zimmer): On that note, thank you very much for organizing and taking the time to present today.

LONDON HUMANE SOCIETY

The Acting Chair (Mr. David Zimmer): The next presenter is the London Humane Society: Judy Foster, executive director. Ms. Foster, you will have 15 minutes. I'll give you a three-minute warning as you approach the end. If you want to leave a portion of your time slot for a question-and-answer exchange with the members, please do; that's your decision. You may begin.

Ms. Judy Foster: I hope to have a few minutes for questions at the end.

The Acting Chair (Mr. David Zimmer): All right. You leave whatever time you want to leave for Q & As. Identify yourself for Hansard, please.

Ms. Judy Foster: I'm Judy Foster. I'm the executive director of the London Humane Society. We serve London and Middlesex county. We were established in 1899. We do not run a pound facility or animal care facility, as it might be known elsewhere in the province.

First, we do support the intent of the bill for the protection of and prevention of cruelty to animals.

Given the time constraint, I'm going to move quickly through my comments and concerns.

First of all, it's disappointing that affiliate members weren't consulted prior to the bill hitting the floor. We're running community non-profits, operating on community charitable donations, and we believe that we have meaningful contributions to make. We deal with the day-to-day challenges of animal welfare, and we fund the OSPCA activity in our communities, such as London, which brings the question, how is the community to be informed that these new legislative powers are to be enforced by charitable donations? I recognize that this is the status quo, but does the greater public understand that when agents/investigators appear in a police-like uniform and have police powers, they're actually being funded by their local charity—in this instance, the London Humane Society?

I also recognize that we are served by the crown when charges proceed and that limited support comes through the OSPCA.

There have been a number of questions, actually, about the amount of support that flows through to the local societies through the funding. There was just a reference made to the \$7.5 million worth of funding. The way that funding is flowing through right now, it's coming in terms of training support, which covers about 50% of one day of training for the agents and investigators. We don't have an investigator at this point in time on staff, but it's not quite 50% of the expense incurred for that person to attend training. So we're seeing very little of that \$7.5 million.

Further, the OSPCA supports investigations, but that support is limited, and sometimes even major situations don't warrant their involvement with and support of the local humane societies, in terms of executing the work that needs to be done.

I have a few points here related to the increased powers of the bill and the need for some balance with what the bill is proposing.

First of all, there needs to be a plan to manage community expectations. To date, the discussion about the bill has been about how much better the animals are going to be protected and how we're going to be able to prevent ongoing cruelty. However, given static resources and fluctuating donor support, that is going to be challenging to local societies. Also, given the limited amount of money that's flowing through the OSPCA to the affiliates, I don't see that providing any meaningful relief.

Secondly, there is a need for education on the new legislation: What's "standards of care," what's "distress"? We need that on both sides, both internally and for the community, so they understand that the bar has been raised.

Thirdly, there are training needs that are going to have to be addressed. Agents who have served a long time had very limited training to become agents. We're talking about folks who are on staff and have police powers, and now we're increasing those police powers. Training needs have to be addressed.

Fourthly, manpower needs: This bill is going to require an increase in staffing to deal with the charges, the court documents, court time. This is a resource-intensive bill. As I said, we support the intent of the bill, but we also recognize that this is going to require more staffing. That needs to be addressed.

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Next, there's going to be a need for increased funds to be raised to pay for all of those things, which puts more pressure on the local charities. There have been references in the documents to this as downloading. Downloading to me would mean that there is transfer of responsibilities from government to government. This is transfer of government to local charity.

Next, management of risk with warrantless entry: I know there's been some discussion about that. The humane society's perspective is that that also means there's increased risk for staff, and we need to be able to manage that and, again, have the appropriate training to do that.

Lastly, there's the need for definitions. With regard to standard-of-care abuse: Is abuse that a vet sees different from abuse as defined by what an OSPCA agent funded by a local charity sees? That's open and needs clarity.

Also, "distress" is fairly simply put in the bill, and that may be good or bad in terms of explaining that to someone who has animals in distress. How are the agents going to be clear to an individual and have the legislation back them up that that animal is in distress?

I'd just like to go back to warrantless entries for a moment. My belief is that this matter needs more scrutiny. Beyond the risk to staff, there needs to be clarification of when this can be done. I think that there's an attempt in the bill to set some parameters, but that specific conditions need to be there as well. Also, in terms of expectation of agents seizing property without a warrant—again, in terms of protecting staff and ensuring that the humane societies, acting as affiliates, are doing the right thing, and that the investigations are proceeding

as they should rather than going back and forth and then just wasting everybody's resources and not achieving the outcome that's desired.

In terms of some specific details related to the bill that I wanted to speak to, I note in the bill that a chief inspector shall be appointed. Again, there are no qualifications set for that position, and as affiliates we experience shifts in direction without rationale and often without any information. I think there's an opportunity to make an improvement here in terms of the parameters of the chief inspector. There's also a note that the chief inspector can fire affiliate staff with this bill. To me, that would be like the Thames Valley director firing the London District Catholic School Board staff. How can that be? It seems like that's a lot of power and certainly that needs to be addressed within that chief inspector's role.

There's accountability with regard to the OSPCA. As an affiliate, some lines would be helpful, to see where the lines of accountability are. As it has been said before, the OSPCA is both the regulator and a competitor to every affiliate. The OSPCA is running a fundraising campaign through the TV right now in our area. Those kinds of things also have to be taken in consideration when you're looking to the humane societies to increase their funding through charitable donations to implement this bill.

Next, I want to talk briefly about the Animal Care Review Board. The bill states that now the board can dictate for a society to care for an animal and leave it on the abuser's property. It can dictate that the society would care for the animal, provide the veterinary care, the food, and whatever else needs to be delivered to that animal to increase its care, but the board can also direct that the animal stay on the property of the abuser. That doesn't make business sense to me, and as well I think there's an opportunity for community confusion. The OSPCA agent funded by the London Humane Society may be doing all of their work, but in fact it looks as if we are not dealing with it because the animals have stayed with the owner. So I think there's an opportunity for some clarification there.

Lastly, section 6: If indeed the material circulated about the OSPCA's ability to remove "humane society" from affiliate names is accurate, we have grave concern. I have made attempts to get clarity on this in advance of today, but my attempts have not been productive and I still don't have a clear answer in terms of what the intent of the bill is with regard to that. If the OSPCA had the ability to remove the name "humane society" from the London Humane Society, it would be crippling and deadly for us and for any other society. I think there needs to be some attention directed to section 6. Get some clarity and have that information shared so that everybody understands what the intent of section 6 is.

The Acting Chair (Mr. David Zimmer): Thank you. We have about two and a half, three minutes, beginning with the NDP.

Ms. Cheri DiNovo: Thank you for your deputation. Certainly I would see that we are in agreement with what you had to say.

One of the deputants brought in the Manitoba act. It's a pretty weighty tome in comparison to Bill 50. Have you looked at the Manitoba act and the Alberta act, and would you see those as better or worse? Do you have any comments about them? Certainly, in terms of the looseness of the definitions in Bill 50, we have an issue with that too. What does "distress" mean, for example? This goes into much greater detail.

Ms. Judy Foster: Absolutely. From my research, which has been limited to this month with regard to defining "distress," Manitoba's seems to be the preferred definition.

The Acting Chair (Mr. David Zimmer): Mr. Levac.

Mr. Dave Levac: Thanks for your presentation, Ms. Foster. Just for a few quick clarifications—you weren't here—and one that's very simple: I've mentioned this before, and some people continue to raise the spectre, this ghost. There will be an amendment to section 6 that leaves the names alone.

Number two, the chief inspector can take away status but cannot fire. That's inside of the legislation. So the chief inspector can take away the status of an inspector but cannot fire the inspector. The intention would be to work with the shelter and the vets and everyone else to improve the circumstances for better care of animals. The hearings will be done. There's a working group that has been created to work on the regulations that you're concerned about, and it will be dealt with in between the two readings of the bill.

Just one really big, general clarification: There's been a lot of talk about the \$7.5 million, how it's distributed and what it's for. Let's be clear: It's a contract with the provincial government to the OSPCA to provide enforcement. So it doesn't give the charities side charity money. It's for enforcement, and the affiliates have access to the same funds. So there's some mischief going on in implying that only one charity group is getting money. It's a contract with the province of Ontario for enforcement purposes, and those people who are trained and are enforcement officers are provided with that money. There's no money given to the charities side and I don't think any group.

Ms. Judy Foster: I think part of what's going on is that that enforcement, though, is being directed to OSPCA branches. The OSPCA is divided into two organizations, the branch organization and the affiliate. The affiliates run as separate franchises, for lack of a better word. The branch is run as company owned. So that money is flowing through to the branches, not through to the affiliates.

Mr. Dave Levac: That's not factual. All people, all organizations, that are affiliates and/or branches of the OSPCA qualify for the enforcement portion as long as they're providing enforcement.

Ms. Judy Foster: So is that just through the regular support that we get?

Mr. Dave Levac: That's through the government's contract with the provider, so that as they're getting the

money, they've got to agree to it—it's a contract—that they're providing that service.

Ms. Judy Foster: Okay. We'll follow up.

Mr. Dave Levac: Yes, please, and quite frankly, it's good to bring this up because notes are being taken throughout this whole process.

The Acting Speaker (Mr. David Zimmer): Mr. Dunlop, you have about two and a half, three minutes.

Mr. Garfield Dunlop: Thank you very much for attending. You dealt with some great points this morning. I'm having a bit of fun with this section 6, because that question was asked in the House, whether the minister would withdraw it. Of course he didn't answer the question. The Toronto Humane Society, as you know, has put out literally tens of thousands of petitions on this and letters and e-mails. I think you guys should have a photo op on this now, maybe a fancy announcement, and say that you're going to withdraw section 6. Isn't it time you did that? Let's spend some money on a photo op and say once and for all, "We're getting rid of section 6." It will disappear. We're not sure what the intent is yet—

Interjection: It was brought up in the hearings.

The Acting Chair (Mr. David Zimmer): Order.

Mr. Garfield Dunlop: It was brought up in the House before the hearings. Thank you very much.

The Acting Chair (Mr. David Zimmer): Thank you very much for organizing your presentation and attending today.

Ms. Judy Foster: You're welcome.

The Acting Chair (Mr. David Zimmer): The next presenter is the Schulich School of Medicine and Dentistry, the University of Western Ontario, Dr. Jones.

Interjection.

The Acting Chair (Mr. David Zimmer): All right. We'll take a five-minute recess.

The committee recessed from 1139 to 1147.

SCHULICH SCHOOL OF MEDICINE AND DENTISTRY, UNIVERSITY OF WESTERN ONTARIO

The Acting Chair (Mr. David Zimmer): The committee will resume. We'll start with the Schulich School of Medicine and Dentistry, University of Western Ontario, Dr. Jones. You will have 15 minutes to present. I'll give you a three-minute warning as you get to the end of your time. You may want to leave time for questions and answers with the committee; that's your choice. If you want to do so, please do. If you would identify yourself for the record.

Dr. Doug Jones: First I'd like to thank you for allowing me this opportunity to address the hearing. My name is Dr. Doug Jones. I am the chair of the medicine, research and society committee of the Schulich School of Medicine and Dentistry, the University of Western Ontario. I'm also representing Dean Carol Herbert, dean of the faculty, who is away from London and can't be here for this meeting.

For the faculty and our committee, we are tasked to monitor the issues that impact the general public and how that impacts on our work. We are the interface between the staff, the faculty and students, and the general public. We're an interface that, because we are a research-intensive institution, is particularly vigilant about any legislation that deals with the use of animals, and it's in this regard that this proposal is really of interest both for us as a school and also as members of the general public.

In considering such a dramatic policy change, it's important to ask some questions that we've asked. We trust you're also considering these questions carefully.

The first important question is with the dramatic change in the responsibilities of a charitable corporation to have policing powers. Why is it necessary to undertake the changes at this time? Are the police unable to fulfill their responsibilities? Is this attempting to bring the Ontario Legislature and legislation into line with other provinces? If so, is it consistent with what has already been done elsewhere? Are we reinventing the wheel in some cases? Also, as this is creating an additional police force, public protection is critical. Are there sufficient guarantees for an open and transparent process? Are there appropriate qualifications for those entrusted with such powers? Is there sufficient accountability for any actions taken? Is there sufficient separation of policing activity from the publicity needed for fundraising for a charitable corporation?

With these principles in mind, I'm going to go over a few specific key points that we've identified in the proposed revision, with some suggestions for inclusions. I prepared 25 copies, that I believe have been distributed to you, of what I'm about to read. You should have those in front of you.

I'm representing the faculty and the dean. With the assistance of legal counsel, we have reviewed the proposed legislation in comparison to some other provincial legislations and have some concerns about what is in front of us. In the sections that are written in, I'll start with section 6, the "chief inspector" section.

There is a lack of accountability and credentialing of the position of the chief inspector and of the appointees of additional inspectors. There must be a well-defined line of authority for, and recognized accreditation of, those who are placed in authority to evaluate the performance of other individuals. In the proposed amendment, such a principle does not exist. There is a chief inspector for whom there are no criteria established as to credentialing, accountability, nor defining the limitations of power to further modify their authority. Similarly, there are no requirements for other inspectors or agents of the corporation involved in such inspections.

We suggest, in section 6 on the chief inspector, that the chief inspector should be a qualified veterinarian, that appointees of additional inspectors should be in accordance with the recommendations of the College of Veterinarians of Ontario or the Canadian Council on Animal Care and, further, that the College of Veterinarians of Ontario should be the overseeing agency for the general inspection process.

In section 11, on prohibitions: Research involving animals, their care and use, as well as the requirements for the housing and transportation of research animals from suppliers are already governed in Canada by federal legislation and overseen by the Canadian Council on Animal Care. With the passing of federal Bill S-213, there have now been increased penalties for cruelty to animals in Canada. In the province of Ontario there is the additional oversight provided by the Animals for Research Act. This context must be considered when evaluating the wording of the proposed amendments to the OSPCA Act. As our research activities are legally bound, and with "colour of right" enshrined in the Ontario Animals for Research Act, any revision to the OSPCA act should specifically state that this is an accepted activity, and have a clause that excludes the activities carried out in accordance with the Animals for Research Act, as amended.

In addition to the sections that are in the act, there are some that we feel are missing: We're very concerned that there's no mention in the revision of an oversight body and accountability for this charitable corporation. As a charity, there is very limited ability for public scrutiny of what has been done and of the outcomes and effects on the public of such activities. With this revision, the SPCA is now going to be given new policing powers to enter premises without a warrant, seize property and charge members of the general public for offences etc. There must be a body overseeing their activities which is mandated to receive annual reports of those activities that have been carried out. It must be open and transparent to public scrutiny.

It would be appropriate for the Ontario Legislature to receive such reports of SPCA activities, investigations, enforcement and outcomes, and to be responsible for its oversight. Furthermore, there must be a transparent and independent review and appeal board for actions taken. On that board must be representatives of the veterinary, agricultural and anglers and hunters communities, with particular attention paid to ensuring that peers for those who are charged are on the committee.

In addition, it's noteworthy that the charity will continue to rely on fundraising to provide its funding as well as the suggested cost recovery for animals seized. Thus, the organization is put in the untenable situation of relying on publicity to assist in its status. As a research-intensive institution, we have had examples where this has led to frivolous activities to gain publicity, rather than acting in the best interests of justice or animal health.

In our own faculty, we were subjected to such frivolous charges when Mr. Peter Hamilton of Lifeforce promulgated charges that one of our researchers, Dr. Bernard Wolfe, and the director of animal care, Dr. William Rapley, were causing harm to one of our research animals. The charges were finally dismissed with Dr. Wolfe and Dr. Rapley acquitted, but with the judge's concluding statement that, "I cannot leave this trial without making the observation, and I echo the

statement put to this court by Mr. Cherniak"—who was a counsel for the defence and stated that the charges were groundless and without foundation—"that on the evidence that I have heard, the charges brought against these two prominent men in this community were groundless and without any real foundation, and the inference I take from the evidence that I have heard is this trial was brought for other purposes."

Thus, it is important that this act not allow such frivolous acts, and that there be a clause that frivolous and nuisance complaints, whether directly or acting through a surrogate, are an offence. Such groups are publicity-driven, because they do not need truth, only the opportunity for public propaganda, even if they lose. We have good examples of that. There is such a clause in the Alberta SPCA act.

We trust that the government will act in the best interests of the Ontario public and incorporate some of these suggestions into the revised document for approval. Thank you very much for your time and attention.

The Acting Chair (Mr. David Zimmer): Thank you. We have about two and a half minutes, beginning with the Liberal caucus. Mr. Levac.

Mr. Dave Levac: Thank you very much, Doctor. I appreciate the sound advice that you offer. Within the Animals for Research Act, as you pointed out, in the Ministry of Agriculture the only time that the SPCA inspectors would act is if there is anything being done beyond the standards of practice that are already accepted. Is that understood by you or is there something else that should be done to clarify that? My understanding is that with hunting, angling, research—if they're covered by other pieces of legislation—the only time that the OSPCA or their agents would act is if those standards were not being met.

Dr. Doug Jones: That is correct, but I think this act should incorporate the statement that that is correct. That's what we're suggesting, that there should be a statement in this act to make that very clear, so we don't have some problem with overlap.

Mr. Dave Levac: We both agree. Thank you very much.

The Acting Chair (Mr. David Zimmer): The Conservative caucus, Mr. Dunlop.

Mr. Garfield Dunlop: Thank you very much for your presentation, Dr. Jones. You brought up some excellent suggestions here, and I think the government would be wise to listen to some of those in their amendments that will be made for this bill.

Could you elaborate a little bit more, if you've got a couple of seconds, on the warrantless entry section of the bill? Just give me a little bit more detail on that from your own opinion.

Dr. Doug Jones: My concern is that there is no mechanism by which you have to go to the courts. In normal police settings, you would have to go to a court to get a warrant to enter a premise. In this case, if you have an overzealous inspector, under the current regulations, even though they may not agree with the owner of the facility,

they can enter the premise without a warrant; that's my understanding of what's there. I think that is a major concern for any member of the public, not just as a facility and medical school. We have a number of us who also are pet owners and have that concern.

Within the bill, there is some concern because of the wording of some of the terms, such as "immediate distress." Being someone in a medical profession, I have some indication of when someone's in distress and when they're put there on purpose. Someone who has not had water or food for 24 hours, as we do in some cases for surgery, is someone who would be physiologically in distress or a stressed situation. In the case of a very small animal, like a mouse, 24 hours is in fact quite a severe problem. For a hunting dog who may not have water for that length of time, it may not be a problem. So it becomes an interpretation of the inspector of when that's a problem. That therefore can be a problem if they don't have to go to a court to get a warrant.

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Mr. Garfield Dunlop: I appreciate your comments. Thank you.

The Acting Chair (Mr. David Zimmer): The NDP, Ms. DiNovo.

Ms. Cheri DiNovo: Thank you, Dr. Jones, for your deputation. Certainly we think that there should be oversight of the OSPCA. It's de facto, in a sense, a government agency. It has been suggested by other deputants, for example, that they report to a body like the Ombudsman's office or somewhere that people can go to appeal in a hands-off, distant way the actions of the OSPCA. Is that something that you would see as perhaps helping the situation, to have the Ombudsman, for example, have jurisdiction over the OSPCA?

Dr. Doug Jones: I can understand that role, to some extent. The difficulty I would see in this particular case is, you're dealing with some situations in which you would hope there would be people who have knowledge upon which they can base some of their judgments and can do that. The ombudsperson themselves would probably not have some of that expertise. A larger body that would incorporate some of those areas of expertise, whether it be someone from the agricultural community or a veterinarian or the anglers and hunters, I think would help in that initial component, because one of the issues has to deal with how far the charges are going and what amount of time you are then exposing those individuals to if this is not going to be, in reality, a real problem. I think that the ombudsperson certainly should have some oversight, as they do with many of the other activities, but I see that as being very limited in this particular case because of their lack of expertise.

Ms. Cheri DiNovo: One of the problems that has been raised repeatedly regarding the drafting of this legislation is the looseness of definition and the necessity for, for example, what "distress" is. We've been given examples here today of the Manitoba act, and also you've made reference to the situation in Alberta. Have you had a chance to look at the Manitoba or Alberta acts? Do you

see those definitions for animal distress as being adequate?

Dr. Doug Jones: I have a copy of the Manitoba act; I don't have a copy of the Alberta act, so comments I have there come from legal counsel. But I think that their definitions are probably closer to what I would use. In my reading of those, they are more reasonable than what we have at the present time.

The Acting Chair (Mr. David Zimmer): Thank you very much for taking the time to organize your presentation and appear today, Dr. Jones.

Dr. Doug Jones: Thank you.

ONTARIO VETERINARY MEDICAL ASSOCIATION

The Acting Chair (Mr. David Zimmer): Our next presenter is the Ontario Veterinary Medical Association, Angela Cerovic and Dr. Debbie Steowen. You will have 15 minutes for your presentation. I will give you a three-minute warning as you approach the end of it. You may wish to leave time towards the end of your presentation for questions and answers. That's your choice. If you would identify yourself for the record and then begin.

Ms. Angela Cerovic: Thank you. I'm Angela Cerovic, and I'm the Ontario Veterinary Medical Association's manager of government relations. I am pleased to be here today.

I've never been so proud to represent a wonderful professional body, Ontario veterinarians. They become veterinarians because of their love for animals, and they are the animal health care professionals. We appreciate that this bill acknowledges that, and we encourage the government to continue to work with Ontario veterinarians as it adds regulations and makes changes to the bill.

We wholeheartedly support Bill 50, and the recommendations that we have today, which will be presented by Dr. Debbie Steowen, are recommendations to perfect the bill. I am here to assist her with any questions that you may have at the end.

Dr. Debbie Steowen: Thank you, Angela. As Angela has said, we strongly support Bill 50, and we do want to see it become law. Any areas wherein we can assist with this, we'd be pleased to—

The Acting Chair (Mr. David Zimmer): Speak up a little bit, or a little closer to the mic.

Dr. Debbie Steowen: Yes. Any areas where we would be able to assist with making this law the best that it possibly can be, we're happy to participate in that.

We do, in our support, have some suggestions and recommendations that we would like to make to help make this law the best that it possibly can be. We have focused these suggestions around three key areas, or what we might call themes, those being consistency, clarity and accountability. For sure, we do believe that clear and consistent legislation that holds all parties accountable for their responsibilities is what is going to make this legislation successful.

Under the theme of consistency, we have three recommendations.

First, we feel strongly that Bill 50 needs to be considered and become the provincial standard for animal welfare in Ontario. We feel that if there are any superseding bylaws, such as municipal bylaws, this will lead to confusion for veterinarians, since they would have to know the bylaws of each municipality and weigh them against Bill 50. Confusion could lead to reduced compliance.

Secondly, it's very important for everyone to recognize that it is only veterinarians who have the education, skills, tools, knowledge and training to be able to accurately and comprehensively assess whether an animal is in distress. Veterinarians not only have training and education in the physical health and well-being of animals, but also in the psychosocial and emotional health and well-being of animals. Because animals cannot speak for themselves, certainly veterinarians need to take all different aspects of the animal's presentation into account to be able to determine if there's distress there. We recommend, therefore, that no other groups should be granted the authority to make judgment as to whether an animal is in distress or not.

Thirdly, it's very important for veterinarians to clearly understand to whom they need to report their suspicions of animal abuse. With Bill 50, veterinarians will now be mandated to report their suspicions of animal abuse, and it needs to be clear and easy whom they are to call. Certainly, there are many animal welfare groups that are out there—animal shelters, different organizations—and we need to know who has the enforcing ability so we can pick up the phone and make that call. It is very important for members of the public, as well, to have clarity and consistency with that.

Our next theme and category is clarity. It's very important for people's responsibilities across Bill 50 to be made clear. Some areas of the bill refer to existing legislation and/or regulations, and other areas even refer to future legislation, but then other areas don't refer to legislation at all and it leaves a space there and a gap in knowledge as to what's happening. I would suggest that you refer to section 11.2(6), which takes a look at the exemptions for causing animals distress. In that section, in reference to wildlife, this is an exception, yet there is no pointing out as to which legislation one should look at so one knows what can be expected from that person. It also doesn't refer to the existence of any legislation whatsoever. In all areas of this bill where it can refer to existing legislation, this will be very important so that we can have a comprehensive understanding of what our obligations are toward animals and animal welfare for everyone.

Lastly, under the third section, accountability, of course in order for this bill to be successful, we all need to be responsible and accountable in our actions to meet this bill. We believe that different parties who are involved need to be accountable for their actions and there need to be accountability measures put in place.

We'll take a look at each group.

With the first group, the OSPCA, we believe that Bill 50 needs to be expanded to include government oversight of the OSPCA and, thus, concurrent public accountability. Certainly, the OSPCA's responsibilities are being expanded, and they are being given widened enforcement abilities and authority. Within that, as well as the OSPCA being quite diffuse across Ontario, we need to have consistency and responsibility with those actions. At the same time, in order for them to meet their responsibilities, we believe that they do need to have the ongoing and adequate funding so that they can actually perform these responsibilities appropriately. We don't want to see any areas of Ontario where the OSPCA cannot respond in a timely manner. As well, we would like the OSPCA to be mandated, at the same time as serving an order to an individual, to inform that individual that they have the right to appeal to the Animal Care Review Board. We've certainly seen through the Dog Owners' Liability Act that if this information is not given, it leads to significant hardships and sometimes costly consequences to everyone.

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Secondly under accountability, in reference to the Animal Care Review Board, we also recommend that the government oversee the activities of the Animal Care Review Board and also that the Animal Care Review Board make public all of their decisions. At the same time, we recommend that adequate funding be provided to members of the Animal Care Review Board. This will attract and retain the appropriate level of expertise needed so that they can properly uphold their responsibilities and meet their mandate.

Thirdly under accountability, with respect to animal abusers, we do believe that all those who abuse animals, whether they be owners or others, must be held accountable for their actions. Within Bill 50, we strongly support the upgraded fines that you have set and we believe that if these fines are lowered, the strength of this legislation will also be lessened. So we support that you keep to these fines.

As well as having strict punishment, which we do endorse, we also endorse and recommend that the government include rehabilitative measures. Certainly these rehabilitative measures could be in the form of counseling, education and/or training. Those who abuse animals and/or neglect animals can certainly have other issues in their lives and it can be a sign of psychological and even psychiatric problems that, if left unattended, will certainly lead to recidivism, even if a fine is applied. It's very important that we approach this holistically and not ignore that at times there is intervention on the psychological and behavioural pattern level, not just putting a fine in place. We need to recognize too that the link between animal abuse and human-directed violence is very real and if we ignore animal abuse and do not apply rehabilitative measures, the next individual that could be injured could be a human being.

The Acting Chair (Mr. David Zimmer): You have three minutes left.

Dr. Debbie Steowen: Thank you.

Fourth under accountability, with respect to crematoriums—

The Acting Chair (Mr. David Zimmer): I'm sorry; my mistake. It's not three minutes. You've got about five minutes left.

Dr. Debbie Steowen: Five minutes? Thank you so much.

Fourth with respect to accountability, on the part of crematoriums—certainly there was an issue last year in Manitoba wherein there were very unethical business practices on the part of a facility, which led to a public outcry. The public actually interpreted the behaviours of this facility as animal abuse. It was termed as animal abuse despite the fact that these animals were deceased. These animals are beloved members of families who trusted the service that was provided. Currently in Ontario there are no regulations concerning the activities of animal crematoriums, which are both the burial and the cremation of animals, and we would like to see this become regulated in Ontario. We'd like to see the province license these organizations and provide the appropriate regulations to govern them so that they can be undertaking their activities with respect and accountability.

With respect to veterinarians, we welcome becoming mandated reporters. We have been advocating for this for years and we uphold this as a responsibility and obligation that we do want. We certainly are very happy with the fact that it gives us protection at the same time from liability when we're making reports in good faith, and we believe that we can be sentinels for not just animal abuse but other forms of family violence as well, given this new role. We are extremely pleased to have this, and we want this to be retained within Bill 50.

Lastly, with respect to the government, our point that we'd like to put forward is that we would like the government to be accountable on a new level in that we would like the government to create a centralized data management system. This would be a system that would account for all of the different types and forms of animal abuse. We would look at the incidence of the abuse, the nature of it, the location of it, who was the perpetrator or perpetrators and also make links and check to see if any other acts of violence have occurred with this individual—whether that be in the form of family violence, child abuse, spousal assault or other forms of violence in society. This database will serve to provide us with a greater understanding of animal abuse and its links to human-directed violence so that we can ultimately better approach this from a preventive perspective, rather than just intervention.

We believe that our government is actually in a very well-positioned place to be able to contribute towards improving our neighbourhoods and our communities. What I mean by improving is both civilizing and humanizing, so this is an amazing opportunity that you have with this bill.

That brings us to a close. I would like to say again that we do believe that clear and consistent legislation that holds all parties accountable for their responsibilities in

this will certainly lead to success in this much-needed animal health welfare legislation. Thank you so much.

The Acting Chair (Mr. David Zimmer): Very briefly—a minute per caucus, beginning with Mr. Dunlop.

Mr. Garfield Dunlop: I was curious when the previous presenter, Dr. Jones, suggested that the chief inspector be a veterinarian. I was wondering if you would comment on that.

Dr. Debbie Steowen: That's very interesting. I think having that depth of knowledge within that position could certainly enrich the decision-making and the guidance provided.

Ms. Cheri DiNovo: Thank you very much for that wise and well-thought-out presentation. Certainly it sounds absolutely doable within the context of this bill.

One of the concerns that we've heard and that we bring with us is about clarity of definitions, for example, around distress. I'm going to ask you the same question I asked the former deputant around the Manitoba act, where they do define animal distress: Have you seen that, and does that sound like a good definition to you?

Dr. Debbie Steowen: I have not seen it, so I'm afraid I can't comment on that. I believe our OVMA stance is that we really do not believe that the terminology should be too well defined, because the narrowing of the definitions can sometimes inadvertently lead to exclusions.

Ms. Cheri DiNovo: It's a very good point, and it hearkens back to your point about oversight of the Animal Care Review Board and also the OSPCA.

Mr. Reza Moridi: Thank you very much, Dr. Steowen, for this excellent presentation. You talked about the enforceability of the bill. I was wondering if you have any particular suggestions in relation to the OSPCA and the power which has been given to the OSPCA in the bill.

Dr. Debbie Steowen: Could you please clarify?

Mr. Reza Moridi: You spoke about the enforceability of the bill. There are provisions in the bill about the OSPCA. Do you have any particular suggestions on that to strengthen the power given to the OSPCA?

Ms. Angela Cerovic: We are happy that the OSPCA has the ability to do more.

The Acting Chair (Mr. David Zimmer): I'm sorry, could you speak up?

Mr. Reza Moridi: Are you happy with the authority in the bill?

Ms. Angela Cerovic: Yes. I think it is necessary that they be given more authority to do more, but at the same time, that's why it's important that the accountability is in place for them: so that they are accountable for their actions in their new role.

The Acting Chair (Mr. David Zimmer): Thank you very much for organizing your presentation today and attending.

BLAIN LEWIS

The Acting Chair (Mr. David Zimmer): Blain Lewis? Mr. Lewis, you will have 15 minutes for your

presentation. I'll give you a three-minute warning as you get towards the end of it. You may or may not want to leave time for questions from the committee members. That's your choice, all right? If you would identify yourself for the record.

Mr. Blain Lewis: I'm Blain Lewis.

The Acting Chair (Mr. David Zimmer): The floor is yours.

Mr. Blain Lewis: I don't know if I'm ready for this. If Bill 50 gets passed as it is, it will be a tragedy. By giving the SPCA agents the power to come onto your property without a warrant, as a government, you will be helping to cause pain and frustration for a lot of people.

1220

Some of the SPCA agents already think they have more power than God. They harass, bully and nitpick at people. Their attitude is that they were given that power by the government and can do as they want. They are accountable to no one but themselves. They go into people's houses and search and look into everything, whether it has anything to do with what they are investigating or not. They think they know more about your animals than you do, no matter how many years you have been interacting and looking after them.

In their investigation papers, they even go so far as to report on people's housekeeping and whether they had dirty dishes in the sink, never saying at what time of the day they are there, or, for that matter, how long they had been holding these people up from doing their jobs.

Some agents have also been known to make up reasons to stop and interfere with people and animals. Could you please tell me how going out to shop, work or socialize can amount to abandonment of your animals? People have come back home from doing just that and found abandonment papers put on their front doors and have had total strangers wander over their property while they were gone. When they have invaded your home, you have a totally different attitude about this agency than if you were sitting at home reading the paper about the abused animals that they had to rescue and are going to give another chance at life.

Most people that they have visited have never had orders written up on them, nor do you hear about the animals that they've been ordered by the appeal board to send back. All the public hears about on the news or in the papers are the ones that are taken away by the SPCA, not the ones that are given back to their owners.

By giving them more power than a police officer—who, by the way, has a lot more training—there are bound to be more animals taken, and for less reason, than are already being taken. With the power to invade without a warrant, there will be no thought of the Canadian Charter of Rights.

As the act is written, it is at the discretion of the agent. But not all people think alike. So everything in the bill will be interpreted differently at all times. Should horses have halters on at all times or is it just for the convenience of the SPCA so they can catch them? Why do dog houses have to be raised six inches off the ground?

Why must outdoor cages be raked daily? The SPCA has been known to take pictures of dirty dishes in places where dogs have not been for several months. Dogs are not safe in a four inch by two inch wire run because the males can breed females through the wire. Why is hay build-up not acceptable at one facility and is at another? Three to four feet high—they think that is a good place for an animal to lay. Ice-free water at all times: How can that be in the wintertime? A driving shed is a dangerous place for cats.

As for giving the OSPCA more power by, as you are saying, strengthening the cruelty laws, it would be better to look into what the OSPCA is doing with the power it already has been given. The agents that we have come into contact with already abuse that power by the way they treat the people they are investigating. There may well be reason for raising the penalties, but only if those charged are charged for legitimate reasons. They intimidate and they will not answer questions put to them by whoever they are investigating.

It would be better if you made changes in the way that the OSPCA agents are trained and what they are taught. I am sure it must take more than two weeks to understand the regulations that they are supposed to be upholding. They should also be taught how to relate to people in a pleasant way. I would like to see them put in a situation in which they put other people. Instead of using strong-arm tactics, there must be a more diplomatic way to resolve a situation.

As you may have already realized, we have not had a good relationship with the OSPCA. In the years we have been bothered by the society, it has not been pleasant. The society, I've been told, was started to help people with problems and issues of having an animal. All we have seen is sarcasm and threats. We were actually told by one agent that if he wanted our registered longhorn bull castrated, it would be castrated. That is the amount of power they think they have.

If you ask anyone who has ever had a visit from them, you would never hear them say that they wanted another visit. They have enough power now; they need to be under some regulation. They should not have total police powers.

The Acting Chair (Mr. David Zimmer): Thank you. We have about two minutes per caucus, beginning with the NDP. Ms. DiNovo.

Ms. Cheri DiNovo: Thank you, Mr. Chair, and thank you, Mr. Lewis, for deputing. It has been suggested by the government that you do have an appeal process when the OSPCA does something egregious, and that is to go to the Animal Care Review Board. What would you say to that?

Mr. Blain Lewis: I'm aware of that.

Ms. Cheri DiNovo: Does that work for you? Is that not a place to go?

Mr. Blain Lewis: Yes, it has worked—

Ms. Cheri DiNovo: It has? Okay.

Mr. Blain Lewis: —but I know that for other people it has not worked.

Ms. Cheri DiNovo: Okay. Thank you.

The Acting Chair (Mr. David Zimmer): Mr. Levac, two minutes.

Mr. Dave Levac: Thank you very much, Mr. Lewis, for your deputation. It sounds like some of the things you had to go through are very disturbing for your family and yourself.

You've just indicated that using the Animal Care Review Board was successful and meaningful. By way of information, somewhere around 16,000 complaints have come in annually, and I think it's about 200 or so where they do take the animals, and about a handful go to the Animal Care Review Board, in comparison with the 16,000 complaints that come through. It would be ridiculous for anyone to sit here and say that there hasn't been some misuse of some of those powers. If there's evidence of that, we need to root that out. I fully support your concern about that and I would hope we take that into consideration when we do the training, and aspects that need to be sensitive to the circumstances. If they are not, we need to have that power to root out the ones who are not as compliant as you'd care for your animals. You know examples that we would talk about. Pit bull dogfighting, cockfighting, illegal activities with animals, puppy mills, those types of things: Not one single person has said, "We want to keep those things." So I hope you understand that that's the purpose of this exercise.

1230

Mr. Blain Lewis: Yes. Okay, now you say a puppy mill. What is the difference in a puppy mill or a sheep mill or a cat mill?

Mr. Dave Levac: It depends on the care and control and the types of activity—

Mr. Blain Lewis: I just don't like that word "puppy mill."

Mr. Dave Levac: Very fair—an illegal dog-manufacturing place. I try to find the right words but I appreciate your sensitivity to it.

The Acting Chair (Mr. David Zimmer): All right. Thank you. Mr. Dunlop.

Mr. Garfield Dunlop: Thank you very much, Mr. Lewis. I appreciate your comments and your presentation. We've had others similar to the type of comments you've made, and I'm hoping that when we make amendments and make regulations to this piece of legislation, your kind of comments will be listened to. I appreciate that very much.

The Acting Chair (Mr. David Zimmer): Thank you for taking the time to attend today and organize your presentation.

WINDSOR ANIMAL ACTION GROUP

The Acting Chair (Mr. David Zimmer): The Windsor Animal Action Group, Jennie Berkeley. Ms. Berkeley, you have 15 minutes. I'll give you a three-minute warning as you get to the end of your presentation. You may want to leave time for some questions

by members of the committee, but that's your choice. All right?

Ms. Jennie Berkeley: Okay.

The Acting Chair (Mr. David Zimmer): And if you would identify yourself for the Hansard record.

Ms. Jennie Berkeley: Yes. My name is Jennie Berkeley and I'm a representative of the Windsor Animal Action Group. I'll just get my papers ready. I've dropped off the copies of my statement already and I have one picture that I wanted to show to the committee during my presentation.

Good afternoon, Chair and committee members. Again, my name is Jennie Berkeley, a representative of the Windsor Animal Action Group, an animal advocacy group involved in outreach, education and awareness campaigns for animal issues.

I am here today to express strong support for Bill 50, the Provincial Animal Welfare Act. This is an excellent bill which will go a long way towards improving the welfare of all animals in Ontario. It is a vast improvement over the old OSPCA Act, as it makes the provincial laws more punitive by increasing OSPCA powers, widening the definition of cruelty and delivering harsher penalties such as lifetime bans. This new bill will take Ontario from worst to first in terms of animal protection legislation in Canada.

My particular interest in Bill 50 regards the expanded OSPCA investigative authority at places where animals are kept for entertainment and exhibition, such as zoos, roadside zoos, menageries and circuses. The travelling circus is an example of an unregulated captive facility plagued by poor conditions and multiple animal welfare concerns. Circus environments are not meeting the wild animals' physical, social and psychological needs, and animals are suffering as a result.

In the wild, animals such as elephants, big cats and bears live in rich, complex habitats. These are large, active animals, and by nature they hunt, forage and roam many miles over a vast terrain. They form intricate social structures, which for elephants last a lifetime. Yet in the circus, their natural activities, instincts and even basic movements are deprived as they spend nine tenths of their time confined to cages, chains and transport trailers.

The first aspect I will discuss are the living conditions: For animals such as bears and big cats, the same "beast wagon" or transport cage is used for travelling and temporary housing at circus venues. These mobile cages are often so small that the animal cannot properly stand up or turn around. The animal is forced to eat, sleep and relieve itself in the same small pen. Apart from rehearsal or the short performance, a circus animal is imprisoned for its entire life in this same tiny enclosure. Food and fresh water are not always readily available. Due to space limitations, often unsuitable species pairings, such as predator and prey, share proximity.

At circus sites, the elephants are chained in leg irons or tethered to stakes 90% of the time. The only exception is during the quick performance. They are chained by one front leg and one back leg and can only take one step

forward and one step back. Often they are chained on hard pavement. Sometimes they are given a little freedom in very small, electrically fenced pens, but this depends on schedule and location suitability. I do have a large poster of a chained elephant and I've left it at the back of the room. Maybe I can bring it up at the end of my presentation. That's the one, yes. Is it necessary—

The Acting Chair (Mr. David Zimmer): That's fine. It's on the back of your material.

Ms. Jennie Berkeley: All right.

Travelling conditions, the second aspect: Circuses and travelling menageries travel constantly. A gruelling, non-stop pace occurs as they cover thousands of miles, visiting an endless array of towns. Animals are transported in poorly ventilated, unheated trailers and are left to stand in their own waste for hours. Food and water are often withheld during the travelling. Safety and containment of the animal are precarious, at best, in these vehicles. The intense confinement associated with circuses' constant travelling and temporary housing accommodations creates physical and psychological trauma for animals. Rough and continuous travel is unhealthy, uncomfortable and stressful for animals, and crowded, unclean quarters can also lead to ill health and disease. The daily intensive confinement and lack of exercise produces physical problems such as musculoskeletal disorders, sores and even elevated heart and cortisol rates. For elephants, the immobilized lifetime state of chaining on concrete results in painful and sometimes life-threatening foot conditions. For all animals, the emotional stress associated with confinement leads to apathy, frustration, increased aggression and the developments of neuroses evidenced by stereotypic behaviours such as pacing, rocking and head bobbing in elephants.

Third aspect, training: Circuses' most serious animal welfare violations involve harsh training measures and tools used in performances. The wild and exotic animals used in circuses do not possess the domestic animals' traits of docility and reliability and they are not easily controlled or trained. Impatient circus trainers frequently resort to brutality against animals to achieve the desired performance. While circuses remain secretive about life-behind-the-scenes training, animal welfare organizations and bystanders have documented numerous instances of animal cruelty. Many circuses use violent and physically abusive methods such as beatings and electrical prods to train animals at a young age. Cruelty inflicted upon animals is revealed by the tools found in a travelling circus, such as whips, electric prods, tight collars and muzzles. All these features act as visual cues and reminders to animals that if they don't perform, they will be hurt and punished. Psychologically, a life of abuse leads to stress, depression, learned helplessness and fear or aggression toward humans. Physically, beatings and jabs produce permanent external and internal injuries, gaping wounds, bruises and sometimes death.

Public safety concerns of the circus: Circuses' impoverished surroundings and abusive training methods

are not only cruel, but they constitute a public safety threat. Wild animals are always unpredictable, but stressed and abused animals are more likely to rampage, destroy property and injure or kill humans. In North America alone there have been dozens of documented cases of circus animal attacks causing human injury and death. Zoocheck's report found the following Ontario incidents on record:

In November 1993 in Toronto, Ontario, a keeper at the Metro Toronto Zoo was gored through the abdomen by an elephant.

In March 1991 in Oshawa, Ontario, a 450-pound tiger featured in Jane Jones Exotic Circus leapt on passers-by on two different occasions.

In July 1990 in Mississauga, Ontario, a 600-pound tiger escaped for 10 minutes from the Shrine Circus.

In August 1988 in Mississauga, Ontario, a brown bear at a Moscow Circus matinee performance bolted into the audience.

Circuses are committing abuses and simultaneously endangering public safety because there are no adequate animal laws governing their activities. There is almost no oversight of circuses by regulating agencies, and circuses don't need licences to operate. The best way to curtail the misuse and mistreatment of animals is through stronger legislation. Bill 50 intends to protect animals in captive situations with new standards of care, and it gives OSPCA officers the tools to react to cruelty and distress. However, to live up to the promise, it is important to take proactive, pre-emptive approaches as well.

We need to proactively promote animal welfare in unregulated places such as circuses by preventing suffering before it occurs. For this reason, specific and comprehensive regulations and standards for circuses should be implemented to prevent bad operators from setting up in the first place.

Here are a few suggestions. Goal of the system: (1) to develop a regulatory framework which ensures humane conditions for animals; (2) to ensure that every circus has evidence to prove its adequate arrangements for the welfare of animals.

The Acting Chair (Mr. David Zimmer): You have three minutes left.

Ms. Jennie Berkeley: Yes, thank you.

The standards could be based on a model similar to Nova Scotia's circus standards. This would include permit regulations and a licensing system for all circus exhibitors. A brief general outline of such a model may contain the following requirements:

(1) Import permit application requirements. This could include established standards with a list of all animals and activities; copies of all health certificates and medical records and federal import/export permits; inspection reports for US-based exhibitors performing in Ontario; and lists on type and size of transportation and housing displays.

There should be a suitability-of-species clause. The overseeing authority will determine which species can safely and humanely be included in a travelling circus. A

consideration should be made for prohibitions on elephants, bears and big cats.

(2) Responsibilities of circus proprietors:

(a) Display sites—this is very important: A ban on elephant chaining similar to Nova Scotia's standards should be mandated. Temporary housing conditions must meet determined minimum display enclosure size standards for each species. Display sites must not be located on sealed surfaces.

I'm going to go through this list quickly to complete this on time.

(b) Animal care: Respect for animals must be encouraged at all times; shelter and water available.

(c) Safety: There must be a recognized safety and recapture plan; mobile communications; escape/recapture plan; provisions for swinging gates and illuminated rings; barriers.

(d) Standards on transportation housing: separate standards for each species according to its needs; ventilated trailers; mandatory stops—12-hour rest periods every 24-hour travelling period; a rest stop every two hours to inspect animals.

(e) Training: no training method which causes pain or stress; ban on jumps through fire by big cats; prohibition on the use of fire in animal training or tricks for all animals; training be done with positive reinforcement only, no physical punishment; consideration for a ban on bull hooks and other sharp weapons.

(f) Types of tricks: No behaviour shall be encouraged which strains the limitations of an animal; animals must not be forced to perform, no matter what the reason.

(g) Veterinarian care: Regular veterinary checkups are mandatory.

The Acting Chair (Mr. David Zimmer): All right, we'll have to stop there. That's your 15 minutes. Thank you very much for organizing your presentation and attending today.

Ms. Jennie Berkeley: Thank you very much.

The Acting Chair (Mr. David Zimmer): The committee will recess until 2 o'clock.

The committee recessed from 1244 to 1357.

The Acting Chair (Mr. David Zimmer): Welcome to the afternoon session of the justice committee.

Mr. Dave Levac: Point of order, Mr. Chairman—I will be brief. I discovered through a conversation that there may be three staff members who do not have transportation between London and Ottawa. I would move and request, and I've spoken to the opposition members and the clerk, that provisions be made in consultation with the clerk so that the members be allowed to travel on the plane that's already been chartered and that has seats to accommodate them.

The Acting Chair (Mr. David Zimmer): All right. Further debate, anybody?

Interjection.

Mr. Dave Levac: Staff—no, I've talked to the members.

The Acting Chair (Mr. David Zimmer): All right. I'll ask the clerk to attend to that administrative detail. Thank you.

CLAYTON CONLAN

The Acting Chair (Mr. David Zimmer): The 2 o'clock session of the justice committee: Clayton Conlan. Mr. Conlan, you have 15 minutes. I'll give you three minutes as a warning as you get towards the end of your presentation. If you want to leave time within your 15 minutes for questions from the committee, that's your option.

Mr. Clayton Conlan: Thank you, sir. Good afternoon. Thank you for allowing me to speak to this important bill. I'm grateful for the opportunity. Each honourable member of the committee has a copy of the outline of my presentation, and I took the liberty of attaching to the outline a copy of my CV just so that you know a little bit more about me.

In the time that I have, I would like to touch on six areas. The first area deals with subsection 1(1) of the bill and in particular the proposed definition of the term "distress." I have respectfully suggested alternative wording for that definition. It's outlined on page 1 of the outline of my presentation. I have suggested that the definition read as follows:

"Distress" means:

"(i) lacking adequate food, water or shelter;

"(ii) being sick or injured;

"(iii) being in pain or suffering; and/or

"(iv) being subject to undue or unnecessary hardship or neglect."

This, in my respectful submission, is a clearer definition than that provided in the bill.

It's been my experience, over the last 10 years or so as a prosecutor and defence counsel in criminal and provincial offence cases, that those involved in the court system tend to work best when definitions are broken down into subclauses. They are often easier to read when they're written that way and they're easier to interpret. That's one of the reasons why I have set out the definition as I have.

You will notice that I substituted the word "adequate" for the word "proper." I did that for two reasons. In my opinion, the word "proper" is a little more subjective than the word "adequate." The word "adequate," at least to me, and I think to most judicial officers, implies a certain minimum acceptable standard. That's what I think the legislation ought to be aimed at preserving, and that's why I have substituted that word.

You will also notice that I deleted the word "care" from the definition. That respectful suggestion is because, in my opinion, the word "care," in addition to being highly subjective, adds nothing really meaningful to the definition. If an animal is receiving adequate food, water, shelter and medical attention, which the balance of the definition covers, then I think it's a given that the animal is receiving adequate care, whatever that means.

So in my opinion, the word “care” is redundant and should be deleted from the definition.

I also took out the words “abused” and “privation.” The reason why I took out the word “abused” is, again, because I think it’s unnecessary, with respect. If an animal is receiving inadequate food, inadequate water, inadequate shelter, inadequate medical attention and/or is subject to undue or unnecessary hardship or neglect, then it is, I think, by definition, being abused in some way. I don’t think the word “abused” adds anything meaningful to the definition, and that’s why I have taken it out.

The word “privation” I also think is a little unnecessary, but I have another reason for taking that word out. I recognize that all of us here at the committee may know what that word means. I suspect that there are several people who are owners or custodians of animals or people involved in these cases who will be unsure as to the meaning of that word. It’s a highly technical word. It’s not a common word that we use in language. I think it’s unnecessary, and that’s why I have taken it out.

The second area that I wish to comment on briefly is subsection 7(1) of the bill, which sets out that “for the purposes of the enforcement of this act or any other law in force in Ontario pertaining to the welfare of or the prevention of cruelty to animals, every inspector and agent of the society has and may exercise any of the powers of a police officer.”

With respect, I think that that clause is ill-advised, and I say that for this reason: Police officers have extensive training. Police officers are subject to rather well-entrenched rules as to their conduct and powers. Those rules are found in the Criminal Code of Canada, they’re found in other legislation such as the Police Services Act, and they’re found in the common law as judges make decisions interpreting various provisions of legislation. None of that applies, at least not to the same degree, to OSPCA officers. I think it would be potentially dangerous to give, *carte blanche*, OSPCA officers the same powers as a police officer.

I will give one example as an illustration. Police officers have the power to detain individuals, physically and involuntarily, for investigation purposes. I’m not sure if it’s intended by the wording of section 7(1) to grant OSPCA officers that same power, but that’s what it says. So if it’s not amended, then OSPCA officers will, without restraints and without weapons, be able to physically detain an individual on or off his or her property for investigation purposes. I think that would be imprudent. I would encourage the committee to consider an amendment to that provision of the bill.

The next area I wish to comment on is in sections 8 and 18 of the bill, and in particular the term “standards of care.” In my respectful submission, it is very important that regulations be in place at the time the new act is proclaimed in force, giving guidance as to what that term means. I don’t necessarily have an objection to the term; it’s that I think it would be a mistake to leave it up to judicial officers, OSPCA agents and owners and custodians of animals to guess at what the term “stan-

dards of care” means. It should be outlined in some detail in regulations so that everybody is certain as to its meaning.

The fourth area I wish to comment on is section 9 of the bill, and in particular the powers of the OSPCA to enter into buildings with or without a warrant to conduct searches. First of all, I want to commend the drafters of the bill in clarifying some areas that have been of concern to judges and justices of the peace; that is, what are the parameters under which OSPCA personnel can enter into a building without a warrant? So in some respects I’m very happy with the wording of the bill.

I do have a couple of suggestions, with respect—the proposed subsection 12(6) uses the term “reasonable grounds.” It may seem like just semantics, but I hope to show you that it’s not. I would suggest that term be replaced with the words “reasonable and probable grounds.” The reason for that is because I see no justification for departing from the rather well-entrenched term “reasonable and probable grounds” that we’ve been using in criminal law and charter jurisprudence for many, many years. That’s the term that governs searches by police officers and other state actors. I see no reason why we should drop the words “and probable.” It should have the same words in this legislation to be consistent.

The second comment I have is the use of the word “persons” in subsections 12(1) and 12(6). I’m not sure who else the drafters of this term had in mind would be participating in searches besides OSPCA personnel, a vet or more than one vet, and perhaps a police officer or more than one police officer for security purposes. So I’m having a hard time figuring out whom the term “persons” refers to. I don’t really think the term should be in there at all. I see no reason why anybody should be entering a building to participate in a search other than the persons I already named.

I don’t think the term “persons” is useful. It is inconsistent with basic principles of criminal law. When a justice of any court or a justice of the peace grants a search warrant to a police officer, for example, it’s only police officers who can participate in the search. It’s not up to the police to decide who else they can bring into the building. So I don’t see why it should be up to the OSPCA to decide who else they can bring into a building to conduct a search other than a vet or vets, and perhaps a police officer or police officers for security purposes and to maintain the peace.

1410

The Acting Chair (Mr. David Zimmer): You have three minutes left.

Mr. Clayton Conlan: Thank you, sir.

I also think it’s important that the legislation specifically provide that a search of a dwelling must be with a warrant. That’s implied because of the use of the words “other than a dwelling,” but I think that it should be positively stated in the legislation that the search of a dwelling must be by warrant.

The last area that I want to comment on is section 16, which provides for the penalties. I do think it’s time that

the penalties be revisited, because it's been a number of years, but I think that this is imbalanced, with respect. Provincial offences are generally considered to be less serious than criminal charges. That's normally reflected in penalties, particularly in jail time. Sometimes, provincial offences attract higher fines, but almost never do they attract longer jail sentences. Under the Criminal Code, the new provisions, the maximum sentence is 18 months in jail where the crown proceeds summarily, which is 99% of the cases. This provides for a penitentiary jail sentence. I think that's a little harsh. It should be more in line with the maximum penalties on summary conviction.

The very last point that I wish to make is not covered in the bill. I would encourage the legislators to consider recording of Animal Care Review Board hearings. I've always been a little bewildered as to why they're not recorded. Almost every other tribunal that I've appeared before over the last 10 or so years is recorded in some way, even if informally by way of a tape recorder. It would be a good idea to do that here. It protects the record for the litigants and it provides for a greater disposition of judicial reviews.

Thanks again. I think it's important that we all debate this bill, and I want to thank you for giving me the opportunity. It's been my pleasure to appear.

The Acting Chair (Mr. David Zimmer): We have about 15 seconds left, so I'll thank you on behalf of the committee, although I have to note on your resumé that in 1999, you were tied for the highest mark in the public law examination of the bar admission course. That's a course that I taught in 1999.

Mr. Clayton Conlan: I didn't plan that, but it's nice to know. It's nice to come under my time, too. I think it's the first time a lawyer has ever come under time, so thanks.

Mr. Mike Colle: You weren't billing for this; that's—

Mr. Clayton Conlan: No, I wasn't.

The Acting Chair (Mr. David Zimmer): I was part of the teaching team on the bar admission course, so I know what a difficult course that was.

Mr. Clayton Conlan: Thanks very much.

The Acting Chair (Mr. David Zimmer): Thank you for taking the time to come over from Owen Sound. I appreciate it.

Mr. Clayton Conlan: It's my pleasure. Thank you.

MARGARET KER

The Acting Chair (Mr. David Zimmer): Margaret Ker? Come up. Ms. Ker, you'll have 15 minutes. I'll give you a three-minute warning when your time is about to expire. If you would like to leave time for questions within your 15-minute presentation, that's your choice. Could you identify yourself for the record?

Ms. Margaret Ker: Good afternoon. My name is Margaret Ker. I'm a retired teacher, I'm a hunter and I own pets and horses. I've lived in Middlesex and Elgin counties. Thank you very much for this opportunity to

comment on the Provincial Animal Welfare Act, Bill 50, which amends the Ontario Society for the Prevention of Cruelty to Animals Act.

The Provincial Animal Welfare Act is commendable in its efforts to protect domestic and farm animals in Ontario by regulating their welfare and to eliminate the abhorrent practices of dogfighting and cockfighting, which are illegally staged to promote profit by gambling. However, there are areas in Bill 50 that concern me, and I would humbly request that the minister re-examine these areas with a view to improving their precision.

Some of the language in the bill, I feel, is vague and requires clarification. The powers granted to the inspectors and agents of the society seem imbalanced with its accountability to the public. Municipal bylaws should be harmonized with OSPCA regulations, and legal hunting and fishing, licensed and monitored by the Ministry of Natural Resources, should be clearly the sole mandate of the Ministry of Natural Resources.

I'm going to go into these points. I will be sending the committee a copy of my remarks but I don't have one for you here today.

Areas of clarification that I think should be addressed: Under "Interpretation," 1(1), the act says, "Distress" means the state of being in need of proper care, water, food or shelter or being injured, sick or in pain or suffering or being abused or subject to undue or unnecessary hardship, privation or neglect...."

Hunting and fishing are legal rights in Ontario. The Ministry of Natural Resources enforces rules and regulations which determine the hunting seasons and the practices of hunting. Subsection 11.2(1) in this act says, "No person shall cause an animal to be in distress." I feel this might be interpreted and could be seen to apply to hunting. Yet 11.2(1) states that the previous subsection does not apply to "native wildlife and fish in the wild in prescribed circumstances or conditions."

The phrase "circumstances or conditions" is too vague. To avoid any possible conflict and misunderstanding of its intention, the words "circumstances or conditions" I would suggest should be replaced to read, "11.2(1) does not apply to fish and wildlife being lawfully hunted in accordance with provincial laws and regulations." Such a change would ensure that the jurisdictions of the OSPCA and the MNR are clear and separate.

Under the heading of "Conflict with municipal by-laws," section 21, the act states, "In the event of a conflict between a provision of this act or of a regulation made under this act and of a municipal bylaw pertaining to the welfare of or the prevention of cruelty to animals, the provision that affords the greater protection to animals shall prevail." This strikes me as rather odd, because surely the policy of having municipal laws harmonized with the act would create a consistent set of regulations, not a patchwork quilt that would vary from municipality to municipality. If that were so, I could see a situation where charges could be brought against persons in different municipalities, and they would not be

dealt with equitably. This would reduce the possibilities of people being convicted in one area and perhaps escaping through a legal loophole in another for the same offence. Conversely, if the bylaws were written with an animal rights bias in a municipality, there would exist the possibility, again, of unequal judgment across the province for similar offences. Mandating each municipality to conform to OSPCA standards would prevent these circumstances, and I urge the minister to consider this.

Under the topic of qualifications and powers of inspectors and agents, 6.1(1), the act states, "The society shall appoint an employee of the society as the chief inspector." I'm not aware of—and I don't know where the public would find—where the concrete qualifications are stated about the training and the experience required for this very important position. Specific qualifications must be expected of a person to whom the province would extend police powers. For example, is there a background check for criminal records? Does the employee have extensive veterinary knowledge? Is that a prerequisite? Personally, I feel the position should be filled by a qualified veterinarian, but that's just my opinion. Does this employee have extensive legal training? This person in whom the public will place so much trust must be observably qualified for the position.

Under subsection 7(1) it says, "Subsection 11(1) of the act is repealed and the following substituted:

"Inspectors and agents

"Powers of police officer

"(1) For the purposes of the enforcement of this act or any other law in force in Ontario pertaining to the welfare of or the prevention of cruelty to animals, every inspector and agent of the society has and may exercise any of the powers of a police officer."

1420

The act goes on to pass that power on down to inspectors and agents of affiliated societies who have been appointed by the chief inspector. They may exercise powers and perform any of the duties of the inspector or the agent. In other words, they would have full police powers too.

I find that this is a very shocking suggestion, really. Giving police powers to SPCA inspectors is not necessary. We have police officers who can be called upon to accompany agents and inspectors. It leads me to ask, is there a problem right now with OSPCA and police co-operation? If that is the case, then the solution is to resolve that problem, not empower people with inadequate training to do a policeman's job.

Any person who has police powers should have commensurate police training and be accountable for their actions in the same way that police are accountable for theirs. How would the society plan to be transparent in its use of these powers if they were granted them? I would suggest that an annual report to the provincial Legislature with details of searches, charges, convictions and appeals would satisfy this concern.

Thank you very much for allowing me to appear before your committee today. I will look forward to

preparing my remarks and having them in to your committee by the deadline.

The Acting Chair (Mr. David Zimmer): We have about two minutes per party for questions, beginning with the Conservatives.

Mr. Robert Bailey: Yes, thank you for your submission today. Do you feel that the act as written, without the changes that both you and other people have recommended, might be subject to charter challenges where it applies to individuals?

Ms. Margaret Ker: I'm not a lawyer. I'm sorry; I can't answer that question.

Mr. Robert Bailey: All right. I'm not either. That's all.

The Acting Chair (Mr. David Zimmer): Ms. DiNovo.

Ms. Cheri DiNovo: Thank you for your submission. It's very congruent with some other deputations that we've heard in terms of your concerns about the powers of the OSPCA and the lack of oversight and training. I'm particularly interested in both you and another deputant today bringing up the issue of training where police powers are given. Clearly, police training needs to be given as well. Thank you for that.

The Acting Chair (Mr. David Zimmer): Mr. Colle.

Mr. Mike Colle: It's an interesting question you posed about the harmonization of municipal powers and OSPCA bylaws. The approach that section 20 has taken here is that whichever set of laws provides stronger protection for animal welfare would be applied. Your recommendation is that we encourage through legislation the harmonization of municipal and OSPCA bylaws. I think it might make life easier in the long run. The only problem is getting there, because we're talking about 400 municipalities with quite a variance of animal protection bylaws or offshoots of animal protection—animal custodial care and noise bylaws.

That's the dilemma: By the time you get to harmonization—I know that in the city of Toronto, 10 years later, they're still trying to harmonize the six sets of bylaws between the former six municipalities that make up the megacity. I think they've gotten halfway through. That's the question I pose to you. I don't know whether that helps. I think it's a good suggestion, but how do you get there?

Ms. Margaret Ker: I recognize that it would be a big job, but I still think it would really make this legislation stronger as an end result.

Mr. Mike Colle: Meanwhile, we're saying that if there is a municipal bylaw that's stronger than the OSPCA, we leave that applying.

Ms. Margaret Ker: I think again that that's a bit of a fuzzy area. I think some of those issues might be open to interpretation. If everyone is working under the same basic structure, then that ensures the aims that this act is heading for.

The Acting Chair (Mr. David Zimmer): Thank you very much for taking the time to present to this committee.

Ms. Margaret Ker: You're very welcome.

AINSLIE WILLOCK

The Acting Chair (Mr. David Zimmer): Ainslie Willock? You have 15 minutes to present. I'll give you a warning about three minutes before your time is up. If you want to leave time for questions from the committee members, please do. That's your choice.

Ms. Ainslie Willock: Thank you very much. My name is Ainslie Willock, and I'd like to thank the Chair and the committee members for this opportunity to speak with you about Bill 50 and its impact on the welfare of animals. I'm here as an individual but I've worked in the animal protection field for over 25 years: everything from working to stop the seal hunt to campaigning to stop the slaughter of cormorants here on the Great Lakes. I work locally, provincially, nationally and internationally.

I'm here because I think that every resident of Ontario, in fact every Canadian, expects a very high level of animal welfare for all animals that live here. It's the only decent thing to do. In fact, it's the government's responsibility to provide leadership on this important issue to Ontario voters.

As I have a fair bit of experience, knowing what actually happens to animals in our society, I know that the amount of cruelty to animals is simply astounding. The fact that most people choose not to know about it is, I can only suspect, simply a coping mechanism as they abdicate their responsibility to the government. The government clearly is informed about the cruelty and has a responsibility to ensure that each and every animal in care has the right to what is known and recognized internationally as the five freedoms for animal welfare. I'm pretty sure you've been told about these before: freedom from hunger and thirst; freedom from thermal and physical discomfort; freedom from pain, injury and disease; freedom from fear and stress; and freedom to express normal behaviour.

I'm not a lawyer and I don't draft laws or regulations, but I can read them and I can get a pretty good idea of what it will mean for the animals. There are some very good things in Bill 50. There would be a provincial route to preventing cruelty to animals rather than having to go the federal route. That would be a big help. That would be progressive.

It looks like if the government in power wanted to protect an animal from cruelty, it could do so under Bill 50. I said, "wanted to protect an animal." I phrased it that way because most of this bill, as I read it, is about protecting people and industries that use animals. I say this because Bill 50 exempts "native wildlife and fish in the wild," which would be hunters, trappers and fishermen; "agricultural animal care, management or husbandry," which would be all farmers; "a prescribed class of animals or animals living in prescribed circumstances or conditions, or prescribed activities," which sounds like any animal user. The vast majority of animals in the province are not our pets. They're not found in dog-fighting rings, puppy mills or used as working police animals.

The exemptions go on and on, to the point that you begin to think that this bill actually, if passed, would result in the protection of animals going backwards rather than forward. It appears to be regressive. What kind of bill creates two standards for the same act? As I see it, I could be prosecuted for an act under this bill, but a farmer, hunter, fisherman, trapper or researcher would not be prosecuted should they abuse an animal. In fact, they would be protected from prosecution under the same bill. This double standard seems to me to be unfair to ordinary residents and certainly sanctions cruelty to animals whenever it is convenient for a user group to do so, whether for economic reasons or some other faulty rationale. That's not the kind of anti-cruelty bill that I could or would support.

Why isn't Ontario taking the best approaches and laws presently in Canada and abroad and creating one for Ontario that is truly progressive and meets the needs of Ontario residents and animals? Is the government so afraid of the extent of the cruelty and the impact on the animal use industries that it thinks it needs to exempt them from prosecution and being held accountable? Does the government want to ensure that animals aren't recognized in law as sentient beings deserving of protection? If this is the case, then the existing cruelty is far more pervasive than what I know about.

1430

I ask you to take out all of the exemptions. If this were done, the bill would be a step forward for Ontario's animals and residents. It would then live up to what the *Globe and Mail* said in an editorial on July 19: "Feeling, sentient beings should indeed be treated" in law "as what they are"—sentient beings.

As one of the reasons for putting Bill 50 forward was to protect native wildlife from cruelty in captive facilities, I ask you why Bill 50 provides no protection for these animals, as they are exempted from care under this bill.

Lastly, I'd like to speak to the fact that Bill 50 prohibits the use of the two words "humane society" unless you are an OSPCA member or affiliate. I understand that the Legislature has actually said that they are going to be looking at this section and reworking it. I once worked for the Toronto Humane Society. I was there for their 100th celebration, and it was a real education to know that children's aid societies, for instance, evolved out of what were known as humanitarian organizations. So I think that those two words, "humane society," are rightfully used by many different organizations and it's part of how we evolved as a society.

In my handout to you, I provided background information from the British Society of Animal Science regarding the internationally accepted concept of the five freedoms for animal welfare that I've mentioned in the presentation. I think these five freedoms should be the basis for creating a bill to truly provide animal welfare for Ontario's wild, native, farm, zoo, research and companion animals. Anything less than this is unacceptable in today's world and represents a backward movement at

a time when at least some of the world, particularly in Europe, is moving forward.

Please remove all exemptions from Bill 50 and please ensure that regulations, soon to be drafted, will truly protect Ontario's animals from cruelty and not exempt user groups.

Thank you again for this opportunity to speak with you. I hope you find my comments helpful. I truly hope that exemptions listed in the present Bill 50 will be removed to provide much-needed legislation to protect animals.

Please don't hesitate to ask me any questions, and I'll see if I can answer them.

The Acting Chair (Mr. David Zimmer): We have about three minutes per caucus now, starting with the NDP, Ms. DiNovo.

Ms. Cheri DiNovo: Thank you for your presentation. I found it very interesting.

Certainly we, in the NDP, support removing section 6. There's no place for it in an animal rights bill. It has nothing to do with animals, except the two-legged variety, so it should come out.

I thought what you had to say about exemptions was interesting, so I certainly think that's worth looking at. That has been one of our concerns, in terms of the looseness of the language in the bill. I know that we're looking at regulations, but as someone else has pointed out, maybe some of those regulations need to be in the bill if we're going to be tighter about our language.

The Acting Chair (Mr. David Zimmer): Mr. Levac.

Mr. Dave Levac: Thank you for your passion about animals; I appreciate it very much. I sense more than just simply this presentation, so thank you very much.

You're aware that the bill itself—not this bill, but the original bill—has not been updated for about 90 years? We're trying to update that.

Ms. Ainslie Willock: Yes, and I understand that it's a difficult process. At the same time, what you actually read in it, to me, is very disturbing.

Mr. Dave Levac: I'd like to offer you some thoughts about your concerns about the wildlife, agriculture, prescribed classes of animals. All of those particular areas that you're concerned about do have codes of behaviour and standards of care within other ministries. There are other expectations in which those particular animals are watched. The idea of Bill 50 or any kind of OSPCA act is to go beyond that. If they do not meet those standards of care, then they still have the capacity—they're not exempted from the rule. If they're breaching their own codes, their own standards and the rules that are set out for their care, the SPCA has the authority and the power and will exercise the investigative powers that are being given to them.

Ms. Ainslie Willock: A number of us have been reviewing those different codes and recommendations and the different laws, and I believe that you'll be receiving a report summarizing those concerns. We believe that they are not at all adequate to meet needs.

Mr. Dave Levac: Perfect. That's the type of debate that we should be having to build the best possible bill that we can. I appreciate your concerns.

Regarding section 6, to reconfirm with you, yes, there will be some modification made to protect the names.

Ms. Ainslie Willock: Thank you.

Mr. Mike Colle: Mr. Chair, do I have time for a question?

The Acting Chair (Mr. David Zimmer): Yes, you have a minute left in your time.

Mr. Mike Colle: I know the bill is certainly far from everything we would all want, but on the other hand, there are some pretty strong, very progressive parts of the bill.

I'd say one aspect of it, too, which has never been addressed before in Ontario, is the animal fighting. Right now, as you know, in the province of Ontario, basically it's a free-for-all. Anybody can train, make money, sell implements and use animals to train other animals to fight. Right now, there's no provision. This bill, for the first time, has put in sanctions and deals with this incredible activity that takes place for profit across this province.

I know there are other parts of the bill you may think should be stronger or there shouldn't be exemptions, but how can you have total despair with the bill when this is the first time this area's been broached by this provincial government in 90 years?

Ms. Ainslie Willock: No, I'm truly thrilled with many portions of the bill, especially the dogfighting and the fact that I understand that puppy mill animals would not be given back to their original owners. There are some really, really strong points in this bill, but that doesn't mean I can turn my back on all the other animals in this province.

The Acting Chair (Mr. David Zimmer): And on that note, we'll have to move to—

Mr. Mike Colle: No, and I appreciate that—

The Acting Chair (Mr. David Zimmer): Mr. Bailey, three minutes. Mr. Bailey is from the Conservative caucus.

Mr. Robert Bailey: I have one question, Ms. Willock. Thanks for your presentation. Can you name a jurisdiction in North America or in Europe where what you're asking for already takes place? Is there somewhere where—

Ms. Ainslie Willock: That report that you're going to be receiving is actually going to be summarizing many other jurisdictions and what they have looked at doing. It won't be comprehensive enough, but you know what? There actually was a review by a lawyer in the States that was reviewing all around the world. That is part of that document, and you'll be receiving it.

Mr. Robert Bailey: Okay, thank you.

Ms. Ainslie Willock: Thank you.

The Acting Chair (Mr. David Zimmer): Thank you very much for your presentation before the committee.

CAMBRIDGE AND DISTRICT HUMANE SOCIETY

The Acting Chair (Mr. David Zimmer): Committee members, we're going to move to the 3:30 slot now, Cambridge and District Humane Society, Bonnie Deekon. Ms. Deekon, you'll have 15 minutes. I'll give you a warning when you have about three minutes left in your presentation. You may want to leave time for questions from the committee within your allotted time. That's your decision. All right?

Ms. Bonnie Deekon: Thank you kindly.

The Acting Chair (Mr. David Zimmer): And if you'd identify yourself for the record.

Ms. Bonnie Deekon: My name is Bonnie Deekon. I'm the executive director of the Cambridge and District Humane Society. I have sat on the board of the OSPCA. One of the problems—and left about three years ago from the OSPCA. That does not mean that the Ontario SPCA is not our founding group, because it certainly is.

The Cambridge and District Humane Society is presently a member in good standing with the OSPCA. We are known as an affiliate, which means we are fortunate to have the financial support and trust of many concerned citizens in our community. It is with that trust that has been given to us that we speak today not only for our board of directors, our employees and our shelter but also for the citizens who contacted us in reference to Bill 50 concerns.

Our particular shelter has been in existence since March 1955 and has charitable and municipal recognition as the Cambridge and District Humane Society. On September 25, 1992, the board of directors of the OSPCA recognized us as an affiliate based on bylaw number two, which we received and complied with at that time.

Our concerns at this time with reference to Bill 50, section 11.4: A few years ago, as an agent for the Cambridge and District Humane Society, I had the pleasure of a behind-the-scenes tour of the Toronto Zoo for training purposes. I believe it was one day in length. It didn't take a very big brain to realize that most agents and inspectors of the OSPCA do not have the background or the training to fully understand what these animals need, nor do our shelters have the ability to house or care for this type of animal. The Cambridge and District Humane Society houses approximately 3,500 animals in a year, and we are stretched to do this. We do have a member of our staff who is knowledgeable in reptiles and fish, and certainly we have more than enough staff to handle our dogs, cats, rabbits and small others. However if this bill passes, we could have an untrained agent or inspector who thinks we should do an inspection of an area that we are not familiar with, such as a zoo or an animal exhibit like the African Lion Safari.

1440

The Canadian Association of Zoos and Aquariums are more than qualified to police their own members. Either make an exception for these groups in the bill or, better

still, send a member of this group to the OSPCA board, or at the very least to the Animal Care Review Board.

We have all seen bad roadside zoos, and certainly this bill could help. However, it must be executed with due diligence. We believe that the thousands of hours of schooling and training that exotic handlers go through cannot be given or imparted to our agents in one or two weeks of training. Thus, the need for any agent or inspector to have the necessary backup prior to entering these areas, along with a CAZA representative, a Ministry of Natural Resources representative and, of course, a warrant, should be mandatory.

We, as animal caregivers, need to be certain that all of our concerns are addressed prior to this bill being passed, and unfortunately this section is too far out of most agents' and inspectors' realms without proper backup. Most often, the agents and inspectors out in the field are young, and perhaps not always physically fit. What happens if an owner has a weapon and a definite desire to have us off their property? It may be too late. At least, if we have a warrant and backup, we have some protection. Let us be certain that this section, as it pertains to zoos and animal exhibits, gets revamped. Can you imagine a warrantless entry in an area that may be housing dog-fighting? Will Bill 50 give the OSPCA agents and inspectors the authority to enter municipal pounds, or perhaps a shelter that does not belong to the OSPCA, to check on the care and housing of the animals?

The average police officer takes three to six months of training prior to getting out into the public and usually two years before they are able to make an arrest. We, at the present time, train our agents for two weeks, and that's only about two years old. Prior to that it took two days, and then we went up to one week. Now we're at two weeks. There are still some of the old staff around who were trained for only two days, and although they return for training at least once a year for one or two days, this does not make them police officers.

Recently our agent underwent training in the use of the baton and pepper spray, and was measured for a bulletproof vest. Obviously the head office of the OSPCA believes that there may be a risk for our investigators. Let us not add to that risk with warrants not being needed.

In order to be approved as an affiliate, as I mentioned, we had to sign an agreement with the OSPCA, and among other items in this agreement, article 9 states: "Shelters must be well-ventilated, have plenty of light, and be heated to 60 degrees. Outside runs and shade must be provided." Nowhere in this agreement does it state the size the runs should be, and nowhere does it state what a cat area or a reptile area should look like. The OSPCA has many shelters under their umbrella, and we would guess that not one of them has the same standards, so how can we impose standards on zoos or exhibits unless we have them too?

Having visited many Canadian and American shelters, I can say without hesitation that we need to clean up our own acts first. When Canadian shelters get overloaded,

they tend to use proper-sized dog crates or cat carriers. What happens if an investigator or agent decides to enter and do an inspection that day? Would this type of confinement pass? I would hope not.

The final concern of the Cambridge and District Humane Society is, of course, section 6 of Bill 50. We do realize it was in section 10 of the present act, but if we are amending, let's get it right. Legacies and donors know us as the Cambridge and District Humane Society and, because we will be grandfathered, we should be able to keep our name. Do we intend to leave the OSPCA? Definitely, not unless, after this presentation, they decide to withdraw our affiliation. Remember that there are no real written standards. If we were removed, they could come into our city and name a branch the Cambridge humane society. What, then, happens to all the goodwill that we have developed in our community that may bring us donations and legacies?

This bill has so many good items. We need to get it totally right, with all stakeholders in agreement, before we ask the legislative committee to pass it for final reading. May we offer our sincere thank you to the Honourable Rick Bartolucci and the Honourable David Zimmer, both very strong advocates for animal protection and welfare, in caring enough to bring these amendments to the act.

In conclusion, may we respectfully request that this bill go back to the drawing board with all concerned stakeholders in attendance, such as CAZA, the Ministry of the Natural Resources, veterinarians, the farming community and any others concerned about animal citizens, before we speak for them.

Thank you to all who have provided us with this opportunity to voice our concerns. Hopefully, this may be resolved to everyone's satisfaction, but more importantly, that we may give all animals a forever home. Our help is their only hope.

The Acting Chair (Mr. David Zimmer): Thank you very much. About two and a half minutes per caucus, beginning with the Liberals, Mr. Levac.

Mr. Dave Levac: Thanks very much for your presentation. I have a few "Are you aware?" questions to make sure that we're on the same wavelength.

Are you aware that CAZA has agreed to training, and will purchase that training through the SPCA, regarding the concern about zoos and roadside zoos and what they're looking at? I'm just going to list them so you can deal with them. Are you aware that the stakeholders have been involved in the creation of this bill from the very beginning? So if you're asking us to go back to the beginning, we're going back to the same people we're consulting. And are you aware that some of the assumptions you've made about the legislation in terms of what powers and authorities are already there or not there or assumptions you've made need to be clarified as opposed to assuming they're not there?

Ms. Bonnie Deekon: Am I aware? Yes, sir.

Mr. Dave Levac: Okay. Finally, for section 6, which you are concerned about, you may not have been here

when we announced there will be an amendment to section 6—

Ms. Bonnie Deekon: No, I was not, sir.

Mr. Dave Levac:—regarding the names.

Ms. Bonnie Deekon: I spoke with Mike Takacs of the African Lion Safari, and his concerns certainly as are as grave as our concerns. The African Lion Safari has been a very strong supporter of the Cambridge and District Humane Society. Just in the past few days there has been a circus in our town and concerned citizens have been notifying us of problems that they feel have arisen from the circus, not from the African Lion Safari. One of them was an elephant crying. We called out to the head trainer, Charlie, and asked him about this one. He was able to even identify the time frame when what the citizen was concerned about took place.

What I'm saying is that what we want—I know that CAZA is more than willing to help us, but I don't think that our agents could be trained well enough to be the people unless they are entering with a warrant and with the protection of all of the other parties.

Mr. Dave Levac: Thanks for your input. I appreciate it.

The Acting Chair (Mr. David Zimmer): The Conservative caucus, Mr. Bailey; two and a half minutes.

Mr. Robert Bailey: Thank you, Ms. Deekon, for your presentation. You brought up the issue of concern for your staff and other staff who would possibly have to attend to situations. Could you expand on that a little more, about the warrantless entry?

Ms. Bonnie Deekon: From our point of view, I have one agent who works in my building. We never send her out without a warrant if we know of something. For instance, there was a recent drug dealer situation where we had to enter because the little dog had five broken ribs, and we had to return that dog, obviously, to the owner. We've since monitored it. We did place her in a very bad situation, but she did have a warrant and she did have police protection. I just worry about her being out there without police protection.

Mr. Robert Bailey: I agree. That's all.

The Acting Chair (Mr. David Zimmer): Ms. DiNovo, on behalf of the NDP.

Ms. Cheri DiNovo: Thank you very much for that presentation. It was most informative. It really was interesting to hear from the agent's point of view the danger of warrantless entries, unless the life of the animal or somebody is at risk and they have to. So number one, that.

The other aspect, hearing about the training of OSPCA, which I've been asking about since the beginning—if we're going to give police powers to OSPCA agents, then we have to ensure that they've got all of the training that goes along with that. You've pointed out, I think very ably, the training that goes into identifying all sorts of problems with all sorts of different animals in different settings. That's a real concern here. An oversight of the OSPCA is a concern so that appeal processes can be put into place too, so thank you.

1450

You should know that we've been fighting from the beginning, along with Tim Trow of the Toronto Humane Society and other humane societies, to get rid of section 6, so we'll definitely fight to ensure that that promise is kept and that we get rid of that in the clause-by-clause. Again, thank you so much. It's the first deputation I've seen speaking from within the OSPCA and I wish we'd hear more. Thank you.

Ms. Bonnie Deekon: Thank you kindly.

The Acting Chair (Mr. David Zimmer): Thank you very much for your presentation and thank you for coming all the way from Cambridge.

May I ask, is Hamilton Hunt here? Vicki Henshaw? Then members, we'll move to the 4 o'clock slot, Anne and Fred Probst.

Mr. Levac?

Mr. Dave Levac: Mr. Chairman, hearing some of the concerns that are raised about warrantless entry, in case it has not happened, I've secured a briefing, if the opposition members would like a briefing on the specifics in a more detailed fashion, to provide you with some background information on when and how it can be used, because I think it's very germane to the discussion and to ensure that we have the right information to share it with everybody publicly, so that when it does come up we can have the same information. I don't want to talk about it unless you're comfortable on the opposition benches—to have an understanding and a briefing of that. If that's appropriate, I would make that offer and then make arrangements for the opposition to request from the ministry staff to do that.

The Acting Chair (Mr. David Zimmer): All right. I'll leave you to take that up with the parliamentary assistants.

ANNE PROBST

The Acting Chair (Mr. David Zimmer): Anne and Fred Probst? You'll have 15 minutes for your presentation. I'll give you a heads-up when you've got about three minutes left. You may want to leave time for questions from the committee but that's your choice. Thank you.

Ms. Anne Probst: My name is Anne Probst. My husband wasn't able to be here today, but I'm speaking on behalf of my husband and my three young sons, aged nine, 12 and 14.

We live on a farm with both livestock and companion animals. Our introduction to the enforcement of animal welfare laws in Ontario was through the seizure of our puppy by the Ontario SPCA. Our 12-week-old puppy had a broken front leg. We had our puppy examined by a vet, and we chose to go one step further and seek a second opinion. As we were going through this process, Ontario SPCA investigators arrived at our house with regards to our puppy, giving us an order with a half-hour compliance time. They then seized our puppy, with threats of criminal charges. This seizure went forward based on

telephone conversations with the original vet clinic where the puppy had been seen. No physical exam of the puppy had been done by the original vet clinic in six days, and no physical exam or observation was made of the puppy by the OSPCA investigator at the time of seizure.

This investigation by the Ontario SPCA also went beyond our puppy to include our livestock and other small animals, amounting to large veterinarian bills in order to confirm the well health of all of our animals. These intimidation tactics all caused unnecessary costs, stress and anxiety, as later in the Animal Care Review Board hearing it was brought forth by the Ontario SPCA that there were no issues regarding any other animals in our care.

Throughout these events, we believe that the Ontario SPCA officer was unreasonable, threatening and demeaning. Once our puppy was seized, we had no rights to anything with regard to the care and concern of our puppy. We appealed our case to the Animal Care Review Board, where it was decided that there was no evidence of the puppy being in pain, and that we were given an impossible compliance time. Therefore, there was no basis for the seizure to have occurred.

Further to our appeal, we wrote a letter to the chief inspector of the Ontario SPCA stating our concerns with regard to the investigation and actions of the attending officer. No accountability was acknowledged for the wrongdoing that was done to our family. The way the current system is set up, Ontario SPCA employees can do whatever they feel is in the best interest of the animal, with no accountability for their actions. This ordeal has resulted in serious stress, financially, physically and mentally, to all of my family members. Had Bill 50 been in effect at the time, the situation would have been much worse, as the Ontario SPCA would have had full authority to search the house, in addition to the farm outbuildings and farm property.

Following our letter to the chief inspector of the Ontario SPCA, we followed up our concerns of accountability, or lack thereof, with the Minister of Community Safety and Correctional Services at the time, the Honourable Monte Kwinter. The only reply we received was correspondence acknowledging receipt of our letter and assurance of further correspondence, which never followed. One other individual we know of did receive a response, stating: "The OSPCA is an independently operated charitable organization that plays an important role in protecting animals. The OSPCA Act authorizes the OSPCA to enforce any law in Ontario pertaining to the welfare of animals." From our seizure and further investigation, we have learned that the OSPCA enforces laws through their act and are not accountable to the public in any way.

Less than two years ago, the Ontario SPCA did an excellent job of providing their private organization's position on issues regarding animal welfare on their website. Their position statement read as follows:

"The object of the society, as established by the Ontario SPCA Act ... is to facilitate and provide for the

prevention of cruelty to animals and their protection therefrom. The following animal welfare position statements have evolved over the years as the society reacted to events involving animals and responded to queries concerning the 'society's position.' These animal welfare position statements are the result of extensive queries and correspondence amongst our members' societies, individual members and our staff. They were subjected to extensive debate in committee and by the board of directors. These position statements reflect positions that the society would wish everyone followed, although it is acknowledged that there are activities which are permitted under law, or lack of law, which the Ontario SPCA does not approve. The society's basic premise is that no activity should take place that places any animal in distress. Until a law or regulation is passed that prohibits placing animals in distress, we can only deplore the activity and campaign against such activities but will not take any unlawful act to interfere. However, any activity that involves cruelty to animals will be investigated and appropriate charges will be laid if justified. These position statements reflect the society's goals which it is hoped may be attained in time."

Among the many position statements that would be of great concern to farmers is that the OSPCA does not find acceptable the practices of tattooing, ear tagging, castrating, dehorning, debeaking or even intensive livestock farming practices. This is most disturbing, considering our biosecurity issues today and mad cow disease. A cow is not allowed to leave your property without its ear being tagged.

We do not believe that these statements represent the public at large. Furthermore, these statements can no longer be found on their website.

This private, charitable organization has received over \$7.5 million in funding from the provincial government over the last two years. This being the case, how can government funds be allocated without any oversight from the province? How can this be possible in a free and democratic society—that there is a private organization with its own private agenda which receives government funding, yet is not accountable to the public?

The introduction of Bill 50 brings forth several points of concern with respect to animal welfare and its governance by the Ontario SPCA. The wording of Bill 50 is subjective. For example, what is "adequate," and who makes this decision? Ontario SPCA inspectors attend calls with uniformed police officers. Is this intimidation necessary, and at whose cost is this investigation being carried out?

Of particular concern are the issues of police powers and accountability. The Ontario SPCA is a private organization with its own agenda. An agency like this should not be given police powers, because of bias and conflict of interest with regard to enforcement. Ontario Court Justice Anton Zuraw, with respect to a case in Hamilton in 2006, said that he was troubled by the perception of bias and conflict of interest by the agency. Bill 50 would grant increased opportunities for bias and

conflict in the enforcement of animal welfare laws by the Ontario SPCA.

Under Bill 50, the police powers of the Ontario SPCA would be increased. Furthermore, the Ontario SPCA inspectors would continue to have and exercise any powers of a police officer without any governance or accountability. This would include the right to warrantless entry anywhere except a residence or veterinarian's office. In a country that considers itself a free and democratic society and has a Charter of Rights and Freedoms that includes no unreasonable search and seizure, one cannot have laws that permit warrantless entry and give out warrants on reasonable beliefs rather than actual observations. This is further troubling as documented cases of abuse and breaches of the Charter of Rights by the Ontario SPCA have been brought to the attention of the provincial government as far back as 1989, when the Ontario Federation of Agriculture officially demanded that the province remove Ontario SPCA police powers.

1500

In 2006, 29 of 36 members of the board of directors of the Ontario SPCA publicly resigned and made the same request to the government. Garnet Lasby, resigned treasurer of the Ontario SPCA, states, "The OSPCA should be involved in welfare of animals and education, not in criminal investigations and prosecutions." There have been many allegations of OSPCA abuse of police powers, which are the result of increased militancy displayed by the investigators and agents.

In conclusion, our family feels that a private charitable organization has no business being given police powers. Before any additional legislation such as Bill 50 can be considered, the Ontario SPCA must be fully transparent and accountable to the public. The Ontario SPCA should concern themselves with public education and welfare of animals, but policy making, enforcement and animal care standards should be left up to an organization that is directly accountable to the public. There is an absolute need for legislatively enshrined public accountability of the Ontario SPCA. Legislation must be changed to hold the Ontario SPCA accountable forever.

Thank you.

The Acting Chair (Mr. David Zimmer): Thank you. About two minutes to each caucus, beginning with the Conservatives.

Mr. Robert Bailey: You mentioned that you went to the tribunal. Someone else brought up in a submission earlier today that there were no written minutes. Did you find that to be the case too? Or is that—

Ms. Anne Probst: Actually, in our case, there were written minutes, and we had to buy them.

Mr. Robert Bailey: Okay. But you were able to see the proceedings and all of the—that helped you with your case, and if you wanted to appeal it.

Ms. Anne Probst: Yes.

Mr. Robert Bailey: Is there an avenue of appeal—I assume that there is—from the tribunal after they've ruled? Is there another level of appeal after that, do you know?

Ms. Anne Probst: We didn't go any further.

Mr. Robert Bailey: You didn't go that route?

Ms. Anne Probst: No.

Mr. Robert Bailey: Okay. Thank you.

The Acting Chair (Mr. David Zimmer): Ms. DiNovo, NDP.

Ms. Cheri DiNovo: Thank you very much for your deputation. It's a common theme. We heard many horror stories yesterday about the OSPCA overstepping their bounds and, in fact, to the detriment of the animals and not in favour of animals at all. Clearly, this is an agency that needs accountability, that needs oversight. I've been saying this since the beginning of these hearings, and we'll try to struggle to get that oversight. There are many ways in which we can provide that oversight, so rest assured that I'll do my best, certainly in light of your comments, which were excellent. Thank you.

Ms. Anne Probst: Thank you.

The Acting Chair (Mr. David Zimmer): Dr. Moridi.

Mr. Reza Moridi: Thank you, Ms. Probst, for an excellent presentation. You talked quite a bit about the accountability of the OSPCA. I wonder if you could please elaborate a little bit more on that. How can the OSPCA be more accountable, in your view?

Ms. Anne Probst: In my case, it was found that a wrongdoing was done and it was just left. There was no contact by the SPCA, there was no—I had three police officers at my house at the time that the dog was seized, who stood there helpless as the SPCA investigator stated acts and sections. This is the way it was. That was very disturbing because police officers are there to help protect your rights and your freedoms, and that didn't take place. That was very disturbing to me.

Mr. Reza Moridi: Thank you.

The Acting Chair (Mr. David Zimmer): You have about a minute left, Mr. Levac.

Mr. Dave Levac: Thank you for your deputation and concerns raised about the bill. You brought up a point that's been brought up a couple of times, and I was curious, so I got some clarity on this. You indicated that you were aware that 20—did you say 28 out of 39 members resigned?

Ms. Anne Probst: Twenty-six.

Mr. Dave Levac: Twenty-six out of 39 members resigned. My understanding was that it was about eight people, and specifically, of the other members who did resign, which didn't total 28, it was for a different reason than the one stated, regarding the powers. It was because they wanted the government to give more money to the SPCA.

Ms. Anne Probst: That's not my understanding.

Mr. Dave Levac: Okay. What I will do, for your benefit and for those who have brought this to the table a couple of times, is that I will seek the actual number, seek clarity, and make sure that people have the correct information so that it doesn't become an unspoken truth.

Ms. Anne Probst: Okay, thank you. I have one other brief statement. Could I read it? It's very brief.

The Acting Chair (Mr. David Zimmer): Yes. You didn't use up all of your time, so go ahead. You've got a couple of minutes.

Ms. Anne Probst: I have an excerpt from an Ontario Court of Justice ruling dated April 2005, citation ONCJ 119.

Five years ago this week, the Ontario SPCA seized a small herd of rare-breed Peruvian horses from Cindy Pauliuk, an internationally recognized expert and Peruvian horse historian. The 10 horses, collectively valued at \$100,000, were held for two weeks and returned to Ms. Pauliuk after payment of \$7,662.13.

Six months later, Ms. Pauliuk was charged with one count of animal cruelty under the Criminal Code of Canada. Here are Justice Zuraw's words:

"The defence characterizes the seizure as a 'rush to judgment' by an overzealous SPCA seeking publicity to aid in its canvassing for funds" with "flowery public releases, which included requests for money" and "instant interviews with local media...."

The Ontario SPCA "relies heavily on the publicity it can glean from high profile seizures and charges. Indeed, there is a communications branch tasked with this. It is a not-for-profit organization and a registered charity. Without publicity and high profile charges, the funds the SPCA needs to operate would no doubt dry up...."

"Bearing the foregoing in mind, it would be more than appropriate to have transparent policies and procedures that prohibit bias and conflict; indeed it would appear to be imperative...."

"It goes without saying that a strong and active enforcement of animal cruelty laws must be maintained. But I would be naive to suggest that the current setup could not foster the perception in reasonable, open-minded people, that bias may exist and that conflicts will result...."

"The perception of bias that looms"—

The Acting Chair (Mr. David Zimmer): Excuse me. I do have to stop you because you're beyond your—

Ms. Anne Probst: I have one paragraph. Can I just finish?

The Acting Chair (Mr. David Zimmer): If you hand the document in, we'll distribute it amongst ourselves. But I have to be fair to all of the participants who have to operate within the time frames.

Ms. Anne Probst: I appreciate that. Thank you. Thank you for your time.

The Acting Chair (Mr. David Zimmer): Thank you very much for taking the time to organize your presentation and attending before the committee. If you speak to the clerk, she'll see that we get that document.

Ms. Anne Probst: Okay, thank you.

ELIZABETH HOWLETT

The Acting Chair (Mr. David Zimmer): We'll go to the 3:45 slot now, members, Elizabeth Howlett. Ms. Howlett, you'll have 15 minutes. I will give you a three-minute warning when your time is about to expire. You

may want to leave time at the end of your presentation for questions from the committee members, but that's your choice.

Ms. Elizabeth Howlett: Mine is very general.

The Acting Chair (Mr. David Zimmer): All right. And if you would identify yourself for the Hansard record.

Ms. Elizabeth Howlett: My name is Elizabeth Howlett. I'm pleased to be here today.

By introduction, I'm a hobby farmer, in particular horses; a pet owner of dogs and cats; a hunter; and a concerned citizen based on my lifetime involvement with animals and hunting.

There are several areas of the proposed legislation that I'm concerned about and would like to speak to. There appears to be a conflict with legislation licensing and regulating all forms of hunting, the Fish and Wildlife Conservation Act and regulations. Hunting is a right under the laws of Ontario: the Heritage Hunting and Fishing Act and the Fish and Wildlife Conservation Act. Regulations are comprehensive, and enforcement is by conservation officers appointed by the Ministry of Natural Resources.

Hunting by nature can be perceived to cause distress, a term used in the document, and would attract prohibition in the proposed subsection 11.2(1): "No person shall cause an animal to be in distress." Proposed section 11.2 would appear to exempt hunting. Also, section 11.2 does not apply to native wildlife and fish in prescribed circumstances or conditions. However, section 22 leaves the definition of wildlife and circumstances and conditions to an exercise of the power to regulate under the OSPCA Act, and thus opens conflict with hunting regulations. The obvious correction would be to change the wording to state that this does not apply to wildlife being lawfully hunted in accordance with the provincial laws and regulations. I feel that hunting dogs and hunting raptors should also be exempt, as the intent is to prohibit cockfights and dogfights, not lawful hunting.

1510

The second point I have is the act's intention to confer police powers on inspectors and agents of the OSPCA. I feel that this is unnecessary and is subject to misuse and should be guarded against. Furthermore, the powers granted to the OSPCA should be restricted—

Interruption.

Ms. Elizabeth Howlett: I couldn't find it when I left. I searched my purse. I'm sorry. It's going to stop in a minute. Isn't this embarrassing. There it is.

The powers granted to the OSPCA should be restricted by removing the powers granted in section 11.4 to enter any place without a warrant unless an animal has been observed directly and in immediate distress. It should clearly define the types of establishments that are subject to inspection without evidence of distress to exclude private establishments, including kennels that keep dogs for private use and not for commercial breeding. It should require inspectors and agents to be appointed not by the OSPCA itself, but by the government.

Section 6.1: Remove the amendment that would include inspectors and agents of all other societies affiliated with the society. Require inspectors and agents to be appropriately qualified and trained in animal care as well as law enforcement procedures and policies and to also be subject to background checks to ensure they do not hold secret agendas, including animal rights agendas.

Bill 50 applies to domestic animals and states that native wildlife is excluded. This must be clear and must apply to the OSPCA itself. The OSPCA website clearly condemns hunting of wildlife for sport, which is lawful, regulated and accepted in Ontario. The OSPCA should not interfere with issues that affect native wildlife that are covered by the Ministry of Natural Resources. The OSPCA is a government-funded organization that is mandated to enforce the laws of the province and therefore should support all laws, including the right to hunt and fish. It follows that ministry officials, including inspectors of the OSPCA and their agents, should be carefully screened to ensure they do not adhere to or support specific animal rights agendas.

Government agencies charged with the duty of protecting animals from abuse and neglect should represent the views of society as a whole, including farmers, researchers, hunters and private citizens. Protecting animals is extremely important; however, the pursuit of animal welfare must never supersede the human rights accorded to members of our society under the Charter of Rights and Freedoms.

The other area I would like to comment on, and see that it is definitely excluded, is the use of animals in research, which is regulated by the Animals for Research Act. The Fish and Wildlife Conservation Act exempts medical research using animals. Similarly, the OSPCA Act should specifically exempt medical research using animals.

Those are my comments.

The Acting Chair (Mr. David Zimmer): Three minutes per caucus now, beginning with the NDP.

Ms. Cheri DiNovo: Thank you, Ms. Howlett. Certainly you're not alone. We've heard similar concerns from other deputants. As you've probably just heard me express to the last deputant, one of the concerns is this unregulated body that doesn't seem to be transparent or have necessary oversight. So certainly, we'll be looking into that. Thank you very much for coming out and sharing your concerns with us.

Ms. Elizabeth Howlett: Thank you.

The Acting Chair (Mr. David Zimmer): For the Liberals?

Mr. Mike Colle: Thank you, Ms. Howlett, for your presentation. You said that you're a hunter. What do you hunt, if I may ask?

Ms. Elizabeth Howlett: Fox and coyote.

Mr. Mike Colle: How do you hunt them?

Ms. Elizabeth Howlett: Traditional fox hunting: horses, hounds; the hounds pursue the fox or the coyote in the wild. We're licensed under the Ministry of Natural Resources.

Mr. Mike Colle: Okay, thank you. We had another deputant just before you who said that she was against the exemption for hunting and for medical research; that we had too many exemptions. Now you're saying that these exemptions don't exist. I'm not quite sure—

Ms. Elizabeth Howlett: I feel the two things that need to be very specifically clarified in the amendments are that animals in medical research are governed by a separate act, and this act should—

Mr. Mike Colle: That's in the legislation, where it says that.

Ms. Elizabeth Howlett: All right, so I may—

Mr. Mike Colle: And the act of 1972.

Ms. Elizabeth Howlett: I just want to be sure that's very clear in any of these amendments. The other, of course, is that hunting and fishing is specifically governed under another act and should not be under the auspices of this act.

Mr. Mike Colle: The other thing that you've mentioned, and others have mentioned, is about police powers being granted to OSPCA officers. I think they've had those powers since 1919. Are you saying we should now remove those?

Ms. Elizabeth Howlett: I guess it's unclear to me, and perhaps to others—but to me, police powers to an officer of the OSPCA is a pretty scary thought. They're not trained police officers.

Mr. Mike Colle: They've had it for 90 years.

Ms. Elizabeth Howlett: Have they? I stand to be corrected, but I still find it appalling.

Mr. Mike Colle: There are a number of people in Ontario right now who are engaging in animal fighting.

Ms. Elizabeth Howlett: There are people in animal fighting, of course, which basically the intention of this act is for, and I realize that. We don't want to have cockfights and dogfights and such.

Mr. Mike Colle: I'm just saying in terms of sanctions against that, how would you stop that if you didn't have police powers?

Ms. Elizabeth Howlett: I think that police powers should be in the hands of the police, not in the hands of an officer of the OSPCA who has had no training in police enforcement.

The Acting Chair (Mr. David Zimmer): On that note, we'll move to the Conservatives.

Mr. Robert Bailey: Thank you for your submission today, Ms. Howlett. I, too, have some concerns—and I'm not as knowledgeable of the act, obviously, as some members, but I know it's a concern that I've heard since I've been here, and before today—about the warrantless entry which may be up for review.

About the police powers, I have family members who are members of different police forces, the OPP being one. I know the extensive training they go into prior to being allowed to do any—upwards of a year or more before you're even allowed to go out and be on your own and do enforcement. So that's certainly something that I know our caucus will be looking at, along with the rest of the committee.

The Acting Chair (Mr. David Zimmer): Thank you very much for taking the time to come to present to this committee.

Is Vicki Henshaw here? Kathleen Lomack?

Committee members, we have one presenter left, then, at 4:45, Mr. Rod Preece. Perhaps Ms. Lomack will show up. We'll adjourn now until—

Mr. Mike Colle: Is Mr. Preece here?

The Acting Chair (Mr. David Zimmer): No, I don't see him.

Mr. Robert Bailey: Mr. Chairman, was this document—

Mr. Mike Colle: That was the add-on she had at the end.

The Acting Chair (Mr. David Zimmer): Yes, from Ms. Probst.

We'll recess until 4:15, and we may end up recessing until 4:45 after that, but for now we're recessed until 4:15. That's an hour, almost.

The committee recessed from 1521 to 1534.

ROD PREECE

The Acting Chair (Mr. David Zimmer): Mr. Rod Preece? Mr. Preece was scheduled to present at 4:45, but he's here early and we've got time. Thank you very much for agreeing to present early. I should say Professor Preece.

Dr. Rod Preece: Ex-Professor Preece.

The Acting Chair (Mr. David Zimmer): You're a retired professor of political science.

Dr. Rod Preece: Emeritus, yes.

The Acting Chair (Mr. David Zimmer): You'll have 15 minutes to present. I'll give you a three-minute warning when your time is about to expire. You may or may not want to leave time at the end of your presentation to take questions from the members, but that's your decision. All right?

Dr. Rod Preece: First, I would like to congratulate the framers of the bill on the production of a progressive and far-sighted document which will vastly improve matters in Ontario. I do, however, have a few reservations about the bill's procedural aspects, and I'm sure you've heard many similar comments during your hearings.

The bill treats the branches and affiliates of the OSPCA as though they were akin. In fact, both historically and presently, branches and affiliates are quite separate entities, with vastly different histories and powers. In short, the affiliates have been independent entities for many decades, and in some instances, well over a century. They are independently financed. They function with their own policies and procedures except in matters pertaining to animal cruelty investigations. The branches, on the other hand, are financed through the OSPCA and must adopt the policies and procedures laid down by the OSPCA. The present bill would effectively obliterate or at least minimize some of these important distinctions.

My primary concern is, as with so many others, section 6 of the bill, which prevents any organization

from using the name “humane society,” “SPCA” etc., unless it is the OSPCA itself or an affiliated society. I recognize the value of encouraging a significant degree of unity among animal protection groups in the province and I welcome the bill’s attempt to address this issue, but in my view the bill goes a little too far.

Were the OSPCA to disaffiliate any presently affiliated society on grounds however valid or on grounds however spurious, it would, by the very act of disaffiliation, deprive the right of the disaffiliated society to use the name under which it has operated for well over a century. That name is essential to the society. It is a name by which it is recognized, supported and funded in its local community, be it Toronto, London, Sarnia, Kitchener-Waterloo or any of the other nine affiliate societies.

Some 20 years ago, when I was a director of the OSPCA and shortly before I became chair of the OSPCA, the OSPCA disaffiliated the Toronto Humane Society. The grounds for the disaffiliation were largely ideological and partly a clash of personalities. Under the present bill, the disaffiliation would automatically have deprived the Toronto Humane Society of a right to operate under the name by which it has been recognized and funded for well over a century. Its very identity would have been threatened, and it would have ceased to be entitled to operate as the Toronto Humane Society as long as the OSPCA so chose.

For many years, the Guelph and the Windsor humane societies chose not to affiliate with the OSPCA. In their belief, their past experience with the OSPCA was one of an attempt to control and dominate them. Under the present bill, these societies, by choosing not to affiliate with the OSPCA, would have lost the right to the name by which they are known in their respective cities. By choosing not to affiliate with the OSPCA, they would have lost the right to the name by which they have been known for many decades. That name not only identifies them, but effectively describes the function they seek to perform. The present bill effectively removes the right to choose independence from the OSPCA.

1540

I would suggest there’s a ready remedy for these, to my mind, deficiencies in the bill. I would propose that two new parts be added to section 6. First, I would suggest a grandfather clause for affiliated societies in existence at the time of the passage of the legislation. Disaffiliation from the OSPCA would then not debar those societies from using their historical names. Secondly, I would suggest there should be a right of appeal from the OSPCA to some independent body in matters of affiliation and disaffiliation, so that the applicant society might not be disaffiliated on illegitimate grounds.

A candidate society should only be subject to rejection if, say, there are grounds to believe the society would disobey the animal welfare act, or would not act in the interest of animals, or it covers territory already covered by another society. A society should only be subject to

disaffiliation if it wilfully contravenes the animal welfare act or acts in a manner harmful to the interests of animals within the parameters of the act.

I’ll leave it there. I’m pleased to answer any questions you may have.

The Acting Chair (Mr. David Zimmer): All right. We have a little more than three minutes per caucus and we’ll start with the Liberal caucus.

Mr. Dave Levac: Thank you very much, Professor. I appreciate very much, first of all, your willingness to be here early and depute early and, second of all, your very sound ideas. So that you’re aware, you were not here when we indicated that there will be some amendments to section 6 to maintain the integrity of the naming in the organizations.

Dr. Rod Preece: Good.

Mr. Dave Levac: There was enough of a discussion across the province that saw the need for clarity on section 6. I liked your amendments, and they’ll be heard by the clerks and the people who take those notes. I appreciate it very much.

One of the things that keeps coming up in terms of section 6 is a power struggle versus a naming struggle. In your opinion, being exposed to the organization the way you have been, is there any sense of detail of some of this power or money struggle that you’re aware of?

Dr. Rod Preece: There has been a struggle ever since I’ve been involved with the OSPCA and local humane societies, which goes back some 30 years. Sometimes they are largely matters of personality, but they are very largely matters of independence. The question is, if money is provided by the province to the OSPCA for animal cruelty investigations, how can one be sure that it will pass on to those—the affiliates, many of which are in fact administering those events.

The struggles, the contests within the humane society, have been very largely ideological: those who think of themselves in terms of animal rights, those who think of themselves in terms of animal welfare. I think they are valid and important distinctions, but I don’t think they have a role in the function of humane societies as such. The ideological debate can go on well outside those parameters.

I don’t see any easy way of attempting to limit them. There are problems. For example, and again this is about some 20 years ago, a society applied for affiliation—it was a time that I was chair of the OSPCA—which consisted almost entirely of trappers, and of course, trapping is legal. I’m not sure which civil service position he held, but a person of considerable force in the administration at that time tried to persuade us very strongly to accept their affiliation simply on the grounds that what they were doing was legal. I accept the force of that argument. I still was very loath to allow a society consisting of trappers to affiliate with the OSPCA. Nonetheless there is a lot to be said that, provided that activities are lawful within prevailing acts, they should be entitled to do so provided that they do not have an overlap in their jurisdiction with other societies. Ideologically, obviously people with a

real concern for animal welfare are not likely to accept those kinds of things.

Twenty years ago, the Toronto Humane Society was a very radical society with a radical board proposing very radical things. The OSPCA at that time was a very welfare-oriented society and eventually disaffiliated the Toronto Humane Society on grounds that were not to do with law but had almost entirely to do with total disagreement about relative merits of the positions they espoused. For that reason, I think it important that a board such as the animal welfare committee be something that can be appealed to in questions either of affiliation or disaffiliation, and that the grounds on which affiliation might be rejected or disaffiliation might be enjoined should be spelled out very clearly so that it cannot simply be a matter of the whim of the OSPCA.

Mr. Dave Levac: Thank you.

The Acting Chair (Mr. David Zimmer): We'll move to the Conservatives now.

Mr. Robert Bailey: Thank you, Dr. Preece, for your presentation today. I have no further questions. I enjoyed your presentation very much, and the information on the history of the associations, for someone new like me, was very informative. Thank you.

Dr. Rod Preece: Thank you.

The Acting Chair (Mr. David Zimmer): And to the NDP.

Ms. Cheri DiNovo: Thank you, Professor Preece, for your deputation today. I've received probably hundreds of e-mails asking that section 6 be removed in its entirety. You're suggesting a grandfather clause. Is there a reason why you would add to section 6, in a sense, instead of deleting it?

Dr. Rod Preece: The two things I want to add I think are both very important. First, I think the committee is very wise to attempt to create some unity in the province and to prevent some society calling itself a humane society, appealing for funds as a humane society, when in fact it has very little to do with being a humane society. I certainly don't object to there being lots of such groups around which are not humane societies and which do very useful work, but I don't think they should be entitled to the name "humane society." For that reason, a grandfather clause would ensure that all the present affiliated societies with those names will be protected.

Ms. Cheri DiNovo: Thank you very much for that.

The Acting Chair (Mr. David Zimmer): Thank you very much for presenting to the committee and for agreeing to go early.

1550

KATHLEEN LOMACK

The Acting Chair (Mr. David Zimmer): I'll call on Kathleen Lomack. Ms. Lomack is in the 4:15 slot, members. Ms. Lomack, the process is that you will have 15 minutes for your presentation. I'll give you a three-minute warning when your time is about to expire. You may wish to leave time at the end of your submission for

questions from the committee, but that's your decision. And if you'll identify yourself for the record.

Ms. Kathleen Lomack: My name is Kathleen Lomack. I live here in London, Ontario. I'm not affiliated with any groups. I'm just a concerned citizen here today.

I am so pleased to be selected to make a presentation to you, the Standing Committee on Justice Policy, especially given that this is such an important piece of legislation that has been so long overdue. I am thrilled to see that no one has turned this into a partisan issue, but rather one of looking to finally make things right with respect to the way animals are treated in the province.

My first response to what I had read about Bill 50 was one of unabashed enthusiasm and commendation for all those behind the initiative. In reading the preamble for this bill, I could not agree more with each and every one of the sentences. The thought that after 89 years, this province would soon have a bill in place that should prove to bring Ontario in line with other jurisdictions in Canada with respect to the subject of appropriate animal welfare policy was warming to myself and others within my community, to say the least. The untold animal suffering that has taken place while we have waited almost 90 years for this progressive legislative change to come to fruition will never be explainable or excusable, and to this end, it is so far beyond the time to move forward without further delay.

First off, if I may, I would like to speak to the topic of the new inspection powers. Sanctioning the OSPCA with the authority to inspect premises other than homes when there are reasonable grounds to suspect abuse is a significant stride in the right direction for a society that purports itself to be a caring one towards animals. It is unfathomable to believe that anything less than the ability for the OSPCA to enter a premises, other than a home, without a warrant would be contemplated in the context of amending legislation connected to the lives of animals, and I am pleased that this clarification has been added. I would not expect that there would be any instances where this authority would be abused and hope that there is no one who will suggest that this would be a concern of theirs.

The move to permit the seizure of the remains of dead animals where there is suspicion that something beyond natural causes has contributed to the death of the animal and further investigation is required makes perfect sense and is appreciated by the animal advocacy community.

The further expansion of the authority to remove and retain an animal when charges have been laid and there is cause to believe harm may come to the animal establishes a degree of cautionary protection that has not been afforded to these innocent creatures ever before in Ontario.

I would also like to comment on the language that speaks to the new provincial offences planned to be created for animal cruelty allegations. This is long overdue and it would be my expectation that at some point in time others will look back in history and wonder as to how we survived without this sort of legal

framework for so many years. Each and every one of the newly created provincial offences listed in the literature provided will be appreciated by those in the business of prosecution and enforcement of offences against animals. The changes stipulated in the new Provincial Animal Welfare Act, 2008, with respect to the fines that can be levied against those charged with animal abuse are definitely a step in the right direction. I am hopeful that as time passes, judges will gravitate toward handing out what I believe our society accepts as appropriate fines for abusive actions.

I must also say that I appreciate the clarity in the definition of the word “distress” as it relates to the issue of animal welfare in the context of this piece of legislation. I should hope that having clear definitions such as this, rather than ambiguous ones, will be helpful for many who are covered under this bill. It would be my expectation that the hunting and angling community would have no issue with this rational definition, and providing anything other than what has been expressed would be a step backwards. I can’t say that I am completely in favour of some of the exceptions mentioned to apply to wildlife and agriculture, but I do understand that this amendment is a significant leap forward.

I would, however, like to speak to a few of the problems that exist in the province with respect to animal care that are not encompassed in the amendments. Bill 50 seems to only partially address some of the abuse that I have witnessed in these facilities commonly referred to as roadside zoos. The tools given to the officers in charge of enforcement are a big improvement when there is obvious suffering. However, what I am concerned about—and I believe that this concern is shared across the province—is that relatively little, if anything, is being contemplated that will serve to proactively prevent animal abuse in the first place. If something could be incorporated during the development of Bill 50 to address this concern, this would be the most efficient and appropriate way to deal with this problem. If I may, I would like to put to you a few suggestions.

A provincial requirement for all individuals or businesses that own, display or keep wild animals in captivity to be licensed would be a major step in the right direction. We have had so many problems in this city and area over the years that can be attributed to inappropriate or unqualified owners of these facilities and ineffective or non-existent bylaws. This has proven to be an international embarrassment to the city of London, and this recommendation, should you choose to act on it, should serve to militate against this problem in the future. This licensing could fall under the Ministry of Community Safety and Correctional Services in the interests of keeping efficiency in mind. It is unbelievable that no licence is required for this sort of a business today, given the risks to the public and the concern for proper and appropriate care for the animals.

The prerequisites for the zoo licence would be in compliance with this non-exhaustive list of requirements:

- submission of a detailed business plan;
- information about the design of the facility;

- the species to be kept;
- details indicating the design and construction of the enclosures;
- outline of the animal management practices;
- how important duties would be assigned to staff and an indication of their workload;
- details regarding the safety features to protect staff, visitors and neighbours;
- the formal training credentials of the keepers and custodians needed to be available and posted. The requirement would be for each of the specific species categories that they were to be in charge of;
- approved funding plan for a minimum of five years, with designated timelines for plan updates;
- liability insurance, which must be in place for up to \$7 million. This must be proven in order to renew a licence;
- emergency plan for the dispersal of animals in the event of a failure of the operation; and
- commitments to care of the animals within the standards that we should hope will be developed for the industry.

My hope and expectation would be that when the Ministry of Community Safety and Correctional Services sets out to enact policy, should you agree that this should fall within their jurisdiction, they will turn to one of the models that have been suggested by others in the zoo animal advocacy realm, such as Zoocheck.

In the interests of public safety, I would hope that, through consultation with those connected to the animal advocacy groups, clear regulations, standards and measures could be put into place to protect all those who would come in contact with wild animals.

It is my understanding that when polls have been taken on the subject of licensing for those who are in charge of captive animals, the public has been overwhelmingly supportive of the concept. I am of the belief that incorporating provisions such as I am suggesting would constitute appropriate due diligence, given the increased level of safety that would flow out of such a requirement against the backdrop of what we know at this point in time can happen when things go awry in some of these facilities.

I fully look forward to observing you all as you do your important committee work on this bill, and if there is anything I can do to help, please feel free to contact me. I believe that what you are doing will be—and is being—supported by the larger community, and as such, I am confident that we will see this bill move through the final reading with an expediency that we are not accustomed to witnessing.

Thanks so much for your time, from myself and all of the voiceless animals that I feel I represent.

The Acting Chair (Mr. David Zimmer): Thank you. We have about two minutes per caucus, beginning with the Conservatives.

Mr. Robert Bailey: Thank you for your presentation today, Ms. Lomack. You talked about the roadside zoos and the insurance issue. Is that an item where you feel

that there has not been enough thought in the past, as far as the insurance and liability issues?

Ms. Kathleen Lomack: Yes, I do. There are so many incidents where people have been attacked by the animals when they haven't been in adequate cages that are safe enough for the visitors and the animals themselves. Yes, I feel strongly about that.

Mr. Robert Bailey: Thank you. That's all.

Ms. Cheri DiNovo: Thank you for your concern and the work that you're doing here even just in deputing. Thank you for that.

Just to be very clear, our concerns from the NDP about this bill are to strengthen it in terms of animal welfare. One of those concerns you just heard us addressing around section 6 was really a turf warfare section and had nothing to do with animal rights.

The other is in terms of the enforcement of animal rights. The concern there is that animal rights be protected from OSPCA officers, if necessary, so that there be some kind of appeal process, an oversight process of what OSPCA officers do. Those are our major concerns and that's how we're moving forward. We've heard some other elements, too, that should be looked at. Again, you mentioned a few of those. So thank you for deputing.

Ms. Kathleen Lomack: You're welcome.

Mr. Mike Colle: Thank you very much for the heartfelt presentation. It has been 90 years and, over the last two days, there have been a lot of people attacking the SPCA, attacking inspectors and saying that their powers of policing should be removed from them; they've had that for 90 years. We've heard people say that the right for inspectors to go, without warrant, in special circumstances with animals should not be there.

So still, there are a lot of people who want to weaken this bill. I think you are prudent to understand that we have a fight ahead of us. There's all kinds of scare-mongering about a threat to agriculture, a threat to fishing and a threat to hunting. This is about better animal welfare. We've waited 90 years; it's about time. I'm glad that you have the commitment and the intelligence to give us some guidance. Thank you so much.

Ms. Kathleen Lomack: You're welcome.

The Acting Chair (Mr. David Zimmer): Thank you very much for presenting to this committee today.

Just one last call: Hamilton Hunt? Vicki Henshaw?

This committee is adjourned until tomorrow at 9:15. Thank you.

The committee adjourned at 1602.

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**Legislative Assembly
of Ontario**

First Session, 39th Parliament

**Assemblée législative
de l'Ontario**

Première session, 39^e législature

**Official Report
of Debates
(Hansard)**

Wednesday 23 July 2008

**Journal
des débats
(Hansard)**

Mercredi 23 juillet 2008

**Standing Committee on
Justice Policy**

Provincial Animal
Welfare Act, 2008

**Comité permanent
de la justice**

Loi ontarienne de 2008
sur le bien-être des animaux

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
JUSTICE POLICYCOMITÉ PERMANENT
DE LA JUSTICE

Wednesday 23 July 2008

Mercredi 23 juillet 2008

The committee met at 0914 in the Sheraton Four Points, London.

PROVINCIAL ANIMAL
WELFARE ACT, 2008LOI ONTARIENNE DE 2008
SUR LE BIEN-ÊTRE DES ANIMAUX

Consideration of Bill 50, An Act to amend the Ontario Society for the Prevention of Cruelty to Animals Act /
Projet de loi 50, Loi modifiant la Loi sur la Société de protection des animaux de l'Ontario.

COUNCIL OF CANADIANS,
LONDON CHAPTER

The Acting Chair (Mr. David Zimmer): Good morning, everybody. Welcome to the second day of the justice committee sitting in London on this legislation. It's 9:15, so I'll call the 9:15 presenter, Kevin Lomack. Mr. Lomack, you'll have 15 minutes. I'll give you a three-minute warning as you get to the end of your time. If you want to leave time for questions from the members of the committee, please do so, but that's your decision. And if you will identify yourself for the record.

Mr. Kevin Lomack: Thank you very much. My name is Kevin Lomack and I'm here on behalf of the London chapter of the Council of Canadians social justice committee.

First of all, I'd like to welcome to London Chairman Zimmer and the rest of the Standing Committee on Justice Policy. I hope you've enjoyed your stay in London so far.

It's very comforting to have this opportunity to make a presentation to you in person. I cannot stress to you how important I believe this piece of legislation is to us. And although I can't say that I've been waiting 89 years for this, some days it sure feels that way. It's very encouraging to see that everyone is looking at this as an issue that needs to be dealt with rather than turning this into a partisan issue and creating a political situation out of this. It's all about the animals, of course.

I've read Bill 50 with enthusiasm, and there is cause for commendation for everyone who has been behind this initiative. The simple reading of the preamble for this bill gives rise to the thought that we are turning a page in history, and I could not think of any more appropriate

sentences to use to describe the purpose and intent than the ones selected by those putting this legislation together. The warmth that I feel with the thought that after 89 years this province should soon have a bill in place that will prove to bring Ontario in line with other jurisdictions in Canada with respect to the subject of appropriate animal welfare policy—this was a concept that seemed unfathomable to us just a very few years ago.

That the vast amount of animal suffering that has taken place while we have waited almost 90 years for this progressive legislation to come to fruition will cease to occur with the passing into law of the task you have been assigned or volunteered for is quite an achievement, and so many innocent lives will be saved and suffering avoided. I have to trust that you are well aware that the process you are participating in will not be lost on the caring, compassionate people of this province during the upcoming election periods and for years to come.

0920

I would like to speak briefly, if I may, to the topic of the new inspection powers. It would be my feeling that sanctioning the OSPCA with the authority to inspect premises, other than homes, when there are reasonable grounds to suspect abuse is a significant stride in the right direction for a society that believes that it now desires to be seen as a caring one towards animals.

The ability of the OSPCA to enter a premise other than a home without a warrant in the context of this amendment to the legislation is just and reasonable, given that the cause is protecting the lives of animals. I am pleased that this clarification has been added. It would not be my expectation that there would be any accusations that this authority would be abused, and I hope that you do not hear any concerns from others on this topic. We all call for this sort of ability when circumstances justify the action in other instances; why should this not apply to the threats to the well-being of animals?

The language change stipulating the ability to permit the seizure of the remains of dead animals when there is suspicion that something untoward has contributed to the death of the animal and further investigation is required makes absolute sense and will turn out to be an additional and very beneficial tool in the hands of the authorities, and will be appreciated by those in the animal advocacy community.

I would expect that the expansion of the authority to remove and retain an animal when charges have been laid

and there is cause to believe harm may come to the animal will establish a degree of satisfaction that has not been afforded to these innocent creatures themselves and to other individuals who have been concerned for the well-being of the animals. Have you ever seen the reaction of a dog when it is inappropriately struck? The thought that this sort of a situation could result in the animal being removed to a safe space is extremely heart-warming.

If I may, I would like to comment on the language that speaks to the new provincial offences planned to be created for animal cruelty allegations. It is hard to believe that we have survived without this sort of legal protection for so long. In looking at each and every one of the newly created provincial offences listed in the literature provided, I'm certain that the jobs of litigators and enforcement officers will be enhanced to the extent that there will be a greater degree of just convictions. My hope would be that we will not see as many horror stories where the authorities state that there was nothing more that they could do.

The changes stipulated in the act with respect to the fines that can be levied against those charged with animal abuse are an encouraging step in the right direction. I am hopeful that as time passes, judges will move towards establishing the jurisprudence that will provide the sort of results that I believe our society accepts and expects with respect to what qualifies as appropriate fines for abusive actions.

The clarity in the definition of the word "distress," as it relates to this piece of legislation, is very much appreciated. I should hope that having clear definitions such as this, rather than ambiguous ones, will be helpful to provide clarity for those in the enforcement realm. It would be my expectation that there should be no issue from any community with respect to this rational definition, and providing any substitute other than what has been suggested to date would be a step backwards.

Given that I fully understand that this amendment is a significant leap forward for those who care about the well-being of animals, I will respectfully refrain from crossing into the space where my sensibilities could get frustrated; this would not be constructive at this point in time. I would just like to let you know that the area of concern for me would, of course, be the exceptions in 11.2(6)(a), (b) and (c). I would, however, like to speak briefly about a few of the problems that exist in the province with respect to animal care that are not appropriately dealt with in this amendment.

Bill 50 seems to not address some of what I would deem as abuse, and I have personally witnessed this in many, many operations commonly referred to as "road-side zoos." I suspect that the tools given to the officers in charge of enforcement are a vast improvement upon what we currently have when there is obvious suffering. However, what I'm concerned about is that relatively little is being contemplated that will serve to facilitate a more proactive attempt to mitigate against animal abuse.

It would be my hope that language could be incorporated during the development of Bill 50 to address

these concerns. I would think that this could be done without too much trouble at this stage of the process. My vision would include these suggestions for you to consider:

There could be a provincial requirement for all individuals or businesses that own, display or keep wild animals in captivity to be licensed. This would be a major step in the right direction. We have had a multitude of problems in London and area over the years that can be attributed back to lack of appropriate or qualified owners of these facilities and less than effective bylaws, to say the least.

As you have seen in the news, this has resulted in embarrassment at the international level. I have personally been called to provide pictures to newspapers in Australia in the middle of the night. I believe that this recommendation should serve to lessen the chances of this problem occurring in the future. It would be my hope that this licensing could fall under the jurisdiction of the Ministry of Community Safety and Correctional Services. Most individuals find it unbelievable that no licence is required for this sort of business at the current time, and given the risks to the public and the concern for proper and appropriate care for the animals, we can't afford to pass on this opportunity.

Some of the simple and easy-to-understand prerequisites for the zoo licence would be compliance with this list of requirements as well as any others that you may feel are required:

- submission of a detailed business plan;
- information and explicit details about the design of the facility;
- a listing of the species contemplated to be kept at the facility;
- approved and certified specifications indicating the design and construction of the enclosures;
- outline of the animal management practices that are contemplated;
- details of how important duties would be assigned to staff and an indication of their workload. In so many instances where accidents happen, the root cause is deemed to be overwork and under-staff;
- requirement to provide details regarding all the safety features to protect staff, visitors and neighbours;
- the formal training requirements of the keepers and custodians need to be available and posted. The requirement would be that they would need to be accredited for each of the specific species categories that they were to be in charge of;
- approved funding plan for a minimum of five years, with designated timelines for plan updates;
- liability insurance in keeping with the principles of due diligence, the amount of coverage to be determined through consultation and risk assessment. This coverage must be proven to be in place in order to renew a licence;
- a catastrophic emergency plan—

The Acting Chair (Mr. David Zimmer): You have three minutes.

Mr. Kevin Lomack: —for the orderly dispersal of the animals in the event of a failure of the operation; and —a commitment to care of the animals within the standards that we should hope will be developed for the industry and covered in the regulations.

It would be my expectation that when the Ministry of Community Safety and Correctional Services sets out to enact policy, if indeed you should be interested in endorsing this recommendation, they will turn to one of the models that has been suggested by others in the zoo animal advocacy realm such as Zoocheck or WSPA.

Public safety, being a prime consideration, should guide those connected to the task of developing this proposal to engage in consultation with those connected to the animal advocacy groups who have had many years of experience in assessing what will be in the broader public interest. Clear regulations, standards and measures could be put into place to protect all those who could come in contact with wild animals.

It is my belief that when citizens have been polled to gauge their receptiveness to the concept of licensing for those operating zoos, who are in the business of dealing with captive animals, the results have been overwhelmingly in favour of the added protection and peace of mind that this would provide. I believe that incorporating provisions such as I'm suggesting would increase the level of public and employee safety. Against the backdrop of what we know at this point in time can happen when zoo operators don't follow any sort of guidelines, we can't afford to take the chance of not doing what we all should realize is the right thing to do.

I fully look forward to paying attention as you all do your important committee work on this bill. Please feel free to contact me if you have any further questions that come to you at any time during the process.

I believe that the process in which you are engaged will be, and is being, supported by the larger community. It is tough to draw a crowd to any kind of proceeding like this in the middle of summer. I certainly know this, and I'm confident that you will have no desire to delay in moving this bill forward through the final reading as expeditiously as possible.

0930

The Acting Chair (Mr. David Zimmer): Thank you. We've got about a minute per caucus, starting with the Conservatives.

Mr. Toby Barrett: Thank you for presenting for the committee this morning. You addressed the issue—in fact you used terms like “suffering,” “abuse” and “cruelty,” and I think you identified in the legislation that they use the term “distress.” There is a definition there, which I think you felt was a good idea. I am concerned, though, because the way it's written, it could really be open to interpretation. It seems somewhat vague and subjective. Is there a better way that we could do this? I know there's one other province that has a very detailed description of what distress means. Should this be identified by someone like a veterinarian? How do we pin this down? You mentioned a dog or—

The Acting Chair (Mr. David Zimmer): All right, we'll have to just leave that question out there.

Mr. Toby Barrett: I'd like an answer if I could, please.

Mr. Kevin Lomack: I'm actually very content with the definition that's been provided in the interpretation section.

Mr. Toby Barrett: Because it's vague?

Mr. Kevin Lomack: No. It actually looks like it's descriptive enough yet leaves some latitude for interpretation through judicial processes at some point.

The Acting Chair (Mr. David Zimmer): I do have to move on now—NDP, Ms. DiNovo.

Ms. Cheri DiNovo: Thank you for your deputation. Greetings to the Council of Canadians. Certainly our role here in the NDP is to see that this bill is as strong and as fair as possible. I thought your comments about the licensing of zoos were very interesting. We'll definitely take that into consideration.

The Acting Chair (Mr. David Zimmer): The Liberals, Mr. Levac.

Mr. Dave Levac: Thanks for your deputation. I appreciate your desire to see a good piece of legislation. No one's got a monopoly on trying to write a good piece of legislation, so we're going to do our best to do that. I would remind everybody that there's been no piece of legislation that I'm aware of in this province that's been perfect, and we will do our best to weed out. The opposition does that; the government does that. There will be amendments, and I appreciate the fact that you've come today before us.

The Acting Chair (Mr. David Zimmer): Thank you for taking the time to present to the community.

Mr. Kevin Lomack: Thank you very much.

Mr. Dave Levac: Point of order, Mr. Chairman: Yesterday, at the request of some of the deputants, and with the approval of the opposition, I indicated that I would come back with some information that would be provided, so I seek your guidance as to when that would be most appropriate to be placed. Would it be all right to give that update today, or would you like me to wait?

The Acting Chair (Mr. David Zimmer): Let's let the morning progress, because I expect there are going to be some gaps this morning, and then we'll address this.

Mr. Dave Levac: I'm at your command.

The Acting Chair (Mr. David Zimmer): All right. Thank you.

Mr. Khalil Ramal: Point of order, Mr. Chair: I would like to move a motion, if that's possible, with agreement from the members of the committee, to allow the controller from the city of London, Gina Barber, to present to the committee, since we have a spot available, I believe, at 9:45. They tried to submit to the committee to be permitted to be—

The Acting Chair (Mr. David Zimmer): Thank you. Any debate on that? Agreed? Agreed. All right, we'll do the city of London at 9:45.

WAYNE UNCER

The Acting Chair (Mr. David Zimmer): Now we'll move to Wayne Uncer. Mr. Uncer, you'll have 15 minutes. I'll give you a three-minute warning as you get to the end of your time. If you want to leave time for questions and answers from the committee, please do so. That's your call.

Mr. Wayne Uncer: Thank you. Good morning, ladies and gentlemen, respected honourable members of Parliament. My name is Wayne Uncer. I'm a retired owner of the largest animal control service in southern Ontario. The service covered 11 municipalities and impounded over 3,000 animals annually. I'm a licensed trapper and member of the Ontario Fur Managers Association. I'm the past vice-president of the Ontario Sporting Dog Association, past president of the Ontario Treeing Walker Association, and a board member of the Canadian Outdoor Heritage Alliance. During 2002 and 2003, I sat on the Ministry of Natural Resources Ontario Fish and Wildlife Advisory Board, an 11-member board offering advice to the minister and ministry on fish and wildlife management issues.

During my involvement with all these organizations, I have gathered a wealth of knowledge regarding animal welfare, animal rights, domestic and wildlife. My personal passion has always followed the path of our forefathers. Animals were used for many purposes and still are: beasts of burden, a protein food source, clothing, cosmetics—a list longer than can be imagined. I do enjoy the hunt and listening to the hounds as they give chase. I hunt, fish and trap, and enjoy the rich resources Ontario has to share.

The hunters, fishermen and trappers of Ontario are responsible for the incredible fish and wildlife opportunities we have today to be utilized or simply viewed. These renewable resources would not be here if it were not for the front-line dedication of the conservationists and hunters in Ontario.

All that being said, I now turn to Bill 50. I'll try to show you how my comments have relevance to the bill. I've worked with the OSPCA, but, as I must confess, they were not all positive experiences. I've experienced the inexperience and the lack of professionalism with some inspectors in our area. The comments made to me during my occupation as an animal control officer were way out of perspective, coming from a person who is supposed to be a professional. I have heard statements repeated to me from an MNR manager that the OSPCA need not worry: "We'll have all the training and trialing areas shut down in the next few years"—one more step towards the goal of the animal rights activists to eliminate all hunting. The OSPCA has refused to assist on several occasions since they were not first on scene and mainly because they work bankers' hours and do not have an after-hours number. The OPP, police and municipal officials have asked for them many times, and we ended up doing the calls as they could not be reached.

The OSPCA has the humane societies under their umbrella but has no control over what they do. Even as

we look at Bill 50, the humane societies are not on the same page. The OSPCA boasts a province-wide network of 25 SPCA branches and 31 affiliated member humane societies in Ontario. The Toronto Humane Society does not support the bill in its entirety as the article below indicates. There currently seems to be a little infighting.

"Fight Bill 50: A message from the Toronto Humane Society:

"Why Bill 50 is flawed and why we must fight back for the animals.

"Michael O'Sullivan, chairman and CEO, Humane Society of Canada" states: "The bill requires more widespread consultation before third reading."

"Tony Kenny, rural Ontario small businessman: 'Any bill should never have a warrantless entry section.'"

Section 6 of Bill 50 will result in community shelters that either don't want to be affiliated with the OSPCA or shelters that the Ontario SPCA itself doesn't want as affiliates being stripped automatically of their names by the Legislature. The Ontario SPCA favours one voice for animal welfare in Ontario, but we know that our strength as a movement is in its many voices. We ask the Ontario SPCA to rethink its support for Bill 50, which could result in hurting other humane societies.

Ontario's animal welfare movement does not belong to the government or to the SPCA. It belongs to the communities that built shelters without government or OSPCA money—organizations that have earned the right to call themselves humane societies and the right to speak out on their own on the issues of the day.

Other important concerns for the animals Bill 50 ignores:

- nothing for lost animals experimented on in laboratories;

- nothing for animals and birds in the wild;

- nothing for millions upon millions of farm animals and birds;

- nothing for any other animal that cabinet may decide to exclude.

The last four statements are certainly animal rights far more than animal welfare concerns. The humane societies of Ontario are regulated and paid members of the OSPCA. The regulations and powers the OSPCA is allowed to have will be utilized by overzealous individuals with their own agenda. As a hunting, fishing and trapping advocate, I dread the thought.

The OSPCA's position statement on farm and agricultural animals reads: "The Ontario SPCA recommends that the physical alteration of farm or agricultural animals, such as removing horns, castration etc. only be carried out when absolutely necessary, and under the supervision of/ or by a veterinarian. The society is opposed to the debeaking of fowl, amputation of animals' tails and punching of animals' ears for identification purposes."

As a point of interest, docking of tails is a standard and accepted practice in many dog breeds.

This very position statement leads one to believe the OSPCA is no more than your everyday animal rights

organization. I support common sense animal welfare but not animal rights. The OSPCA is unique among animal welfare organizations in Ontario. The OSPCA Act mandates the society to enforce animal cruelty laws and provides society branch and affiliate investigators with police powers to do so.

Hunting: As a matter of principle, the Humane Society of the United States opposes the hunting of any living creature for fun, trophy or sport because of the animal trauma, suffering and death that result. A humane society should not condone the killing of any creature in the name of sport. As a practical matter, the Humane Society of the United States actively seeks to eliminate the most inhumane and unfair sport hunting practices, such as the use of body-gripping traps, baiting and the use of dogs.

0940

The humane society of Ontario, making up the majority of the OSPCA membership, carries the same mandates as their US counterparts. I can't help but be skeptical of any attempt by the OSPCA to gain more power legislatively and not be using those powers for higher goals and objectives. Animal rights agendas are clear and can be seen on every web page they post.

I sincerely hope this government looks long and hard at the conflicting views of every Ontario resident when it considers any legislation. There are already legislative acts in place to regulate animal care. The MNR enforces all fish and wildlife legislation with excellent management tools. OMAFRA and the CFIA have volumes of animal care legislation for the protection of animals and for you, as a consumer. Do we really need another public, charitable organization trying to enforce its own idea of what animal protection legislation should entail?

I firmly believe that the OSPCA does great work in most cases, but within the ranks are untrained individuals who should not have any more authority than they currently carry. If the OSPCA inspectors, as part of their job description, attend a police college, I have no problem with them having the same rights as police officers. In no circumstances should they have any higher authority than the police do now.

The society's goal is to be a strong, unified, collaborative organization dedicated to the cultivation of a compassionate Ontario for all animals. The OSPCA defines a puppy mill as "a place where two or more female dogs are frequently bred, primarily for financial gain rather than protection and promotion of breed integrity." As a breeder, I take offence that the OSPCA would also make this statement. The very reason each and every breeder breeds is simply for money. The gratification in seeing one of your dogs become a champion is great, but it means pups are worth a lot more. If it isn't true, just ask any CKC, UKC or AKC show-ring contestant how much for one of their pups. It will usually be considerably higher than that of thousands of kitchen or backyard breeders we all have in Ontario. Any market is supply and demand. Just do some research and see how many breeders advertise animals for sale in Ontario alone.

The OSPCA has refused to release hunting hounds found as strays back to the owners because they would

only be used again for hunting. This act alone is stepping beyond the legislation in place under the Animals for Research Act, whereby the pound keeper must make every attempt to return the animal to its owner. It also already states that if an owner cannot be found, the OSPCA is to be contacted. A lot of good that would do.

The local humane society's no-kill policy very nearly destroyed them when disease hit and the population needed to be eliminated; that was right here in London. Soft-hearted, caring individuals and sometimes even veterinarians can be blinded by the mere compassion they share for animals.

The legislation for the banning of pit bulls was in all rights justifiable. I have personally witnessed the dangerous actions of the breed and removed an animal after it killed its owner. The OSPCA did not support the legislation, nor did the CVMA. On two occasions, in my professional opinion, a pit bull came in to the pound and was not to be released to the owner as per the legislation. The dog owner simply had the dog listed by his vet as a lab-cross or a boxer-cross. The government responsible for the enactment of any legislation should take extra precaution in understanding the language and how it can be interpreted. How the legislation is presented and the rationale for it may not always be as clear as it looks.

I was personally asked, being the owner of a major animal control service, a provincial offences officer, a dog breeder, an Ontario Sporting Dog Association representative and, at that time, a member of the Ontario Fish and Wildlife Advisory Board, for my opinion on the last OSPCA request for legislative changes. The consensus at that time was that the OSPCA needed more teeth in the work they do. We agreed to larger fines, longer jail time and a telewarrant, all legislated and in place. The more the OSPCA gets, the more they seem to want. I can't help but wonder what else is brewing.

I do appreciate the opportunity to speak today and sincerely hope that the proposed legislation will be voted down or amended to protect the traditional practices and currently accepted methods of utilization for animals. I am adamantly against any acts of deliberate cruelty. I do feel that we all need to step back and look at where we are, how we got here, and who we ate to get there. Being at the top of the food chain is a good place to be, unless you get knocked off by a black bear—another piece of bad legislation.

The Acting Chair (Mr. David Zimmer): Three minutes.

Mr. Wayne Uncer: Thank you.

Everyone is entitled to his or her version on how the world should spin, but in all reality, we just need to use a little common sense and look at the other person's position. It would be great, if and when the OSPCA wants to carry a bigger stick, that they had all the stakeholders at the table to work out the details and compromises. I mentioned that to Mike Draper at the last legislative request for changes. I do believe he told me that they were going along with the proposal, but most of it came from a private member's bill and not the OSPCA, the last time they approached legislative changes.

I have two short questions for the standing committee, and a simple show of hands would be acceptable. How many of the committee here currently hold an Outdoors Card?

The Acting Chair (Mr. David Zimmer): It's not appropriate for you to ask the committee questions.

Mr. Wayne Uncer: Oh, I'm sorry. I had another one, but it's an agricultural—

The Acting Chair (Mr. David Zimmer): You can pose it as a rhetorical question, okay?

Mr. Wayne Uncer: It's really not, but okay. Thank you for your time.

The Acting Chair (Mr. David Zimmer): We have about a minute per caucus, starting with the NDP.

Ms. Cheri DiNovo: Thank you for your deputation. We've heard your concerns expressed earlier by a number of deputants. Rest assured that, again, the NDP is here to make sure that humane societies are dealt with fairly in this bill and in this piece of legislation. We are very aware of the concerns around section 6 and that the name "humane society" needs to be maintained and honoured for those who have it, and we're certainly aware of some of the concerns about the OSPCA—how it's operated, the training etc.—and we'll be addressing those concerns. So thank you for your deputation.

The Acting Chair (Mr. David Zimmer): Mr. Levac, for the Liberals.

Mr. Dave Levac: Thank you very much for your presentation. You made the challenge that everyone should be listened to. That's precisely why we're doing the committee hearings: to ensure that we do hear various opinions and make sure that everyone has their say.

A quick question for you: Are you aware that warrantless entry is not new to the OSPCA?

Mr. Wayne Uncer: Yes, but they always have a police officer with them. They don't just walk in by themselves. We've dealt with the OSPCA on many occasions when we've been asked to assist to remove animals. Especially if there's someone home, they won't go in there unless there's a police officer with them.

The Acting Chair (Mr. David Zimmer): On that note, I'll move to the Conservatives.

Mr. Toby Barrett: Two points, quickly: I have a farm, and one of my jobs would be to castrate and cut the tails off 300 lambs every year that we bring in from the west. Would this legislation threaten that kind of activity? Secondly, as a member of the Ruffed Grouse Society, all the grouse have been eliminated on our farms because of feral cats. People drop cats off from town, and they kill baby birds.

Mr. Wayne Uncer: Well, I could talk about animal control all day, but I'll try to keep it brief.

The feral cat population in the province of Ontario is astronomical, and no municipality really wants to deal with it, especially rural municipalities.

Castration and docking of tails is a standard agricultural practice that's gone on for many years, but then again, so was trapping. The Canadian Association for Humane Trapping has pretty well put the trappers out of business with the system they have in place now.

The Acting Chair (Mr. David Zimmer): On that, we'll have to end. Thank you very much for taking the time to present to this committee.

Mr. Wayne Uncer: Thank you for your time.

CITY OF LONDON

The Acting Chair (Mr. David Zimmer): The 9:45 slot: city of London, Gina Barber. Ms. Barber, you'll have 15 minutes. I'll give you a three-minute warning when you get toward the end of your 15 minutes. You may or may not want to leave time for questions from the committee at the end of your presentation. That's your call. Please identify yourself for the record.

Ms. Gina Barber: My name is Gina Barber, and I'm a controller for the city of London. I'd like to thank the committee for giving me this opportunity, particularly when I missed the earlier deadline for registration. I would particularly like to thank Khalil Ramal for giving me this opportunity.

I am a controller for the city of London, which is a city-wide elected position. We're the only city in Canada that still has controllers.

I would like to speak today about the issue of animal welfare from a municipal council perspective. London, like many municipalities, has traditionally dealt with animals, whether wild or domestic, from a control perspective, and this is reflected in our bylaws which deal with the ownership, licensing, registration, restraint and confinement of animals. We have tended to leave legislation regarding the treatment and care of animals to the higher levels of government, with unacceptable results. Each year, thousands of animals are abandoned, exploited and abused. The agencies that deal with the fallout are under-resourced, overworked and have limited powers.

Fortunately, in London we have developed a strong base of concerned citizens and volunteer rescue groups who have done much to take up the slack, and to draw the issue of animal welfare and animal rights to public attention. As a result of their activism, the city established an animal welfare task force which made many recommendations to council, including the establishment of an ongoing citizens' Animal Welfare Advisory Committee that would advise council—this has been up and running since March—and the hiring of an animal welfare coordinator, which happened just two weeks ago. We are moving from an animal control model to an animal welfare model.

0950

Many of the concerns that we have in London can be dealt with at the local level. We can review and amend our bylaws to facilitate the rescue efforts of volunteers. We can coordinate efforts and facilitate communication among volunteer groups. We can initiate programs for preventing the proliferation of unwanted domestic animals.

Much of this proposed legislation will be supportive of our efforts. The creation of a new provincial offence of

causing or permitting distress to any animal is a big step forward, as is providing stiff penalties to those convicted of animal abuse, and the potential of preventing such persons from future animal ownership.

But of particular interest to me is the new section 11.4, which authorizes inspectors and agents to enter “without a warrant” places used “for animal exhibit, entertainment, boarding, hire or sale,” in order to determine if the animals’ care meets the prescribed standards. Additionally, allowing for warrantless entry where there are reasonable and probable grounds to believe that an animal is in immediate distress allows for the kind of intervention that is needed in many situations.

More than a year ago, London gained some notoriety for a situation that has been all too common in Ontario: an unregulated roadside zoo. The condition of Tyson, the kangaroo, enclosed in a pen that did not allow him to hop, caught the attention of newspapers in Australia and New York. We had hoped to be able to intervene in that situation but were caught in a web of legislation that effectively tied our hands. For that reason, many of us were delighted when David Zimmer introduced a private member’s bill that would regulate the treatment of exotic animals in roadside zoos, something that is done in every province except Ontario.

Our city council passed a motion endorsing the legislation and encouraged other municipalities to do likewise. Many signatures were gathered for a petition in support of the legislation and sent to one of our local MPPs. Imagine our disappointment when the matter was not pushed forward despite the fact that all parties in the legislature were supportive of the bill. Although it is more than a year later, I am relieved to see that the concept was not entirely abandoned. I do hope that the regulations pertaining to standards of care for animals in captivity, particularly in roadside zoos, will be as clear and comprehensive as those proposed in the Zimmer bill.

I also hope that this bill will address the issue of licensing roadside zoos. At present, the Ministry of Natural Resources issues licences for keeping native wildlife but not exotic animals. Although our municipal bylaws prohibit keeping exotic animals within the municipal boundaries, agricultural lands are exempted from that bylaw, as are licensed zoos. It was only the technicality of licence renewal that allowed for charges to be laid against the roadside zoo containing Tyson. The owner had failed to renew her licence for the facility, which contained native wildlife as well as exotic species.

The amendments to the Municipal Act which came into effect on January 1, 2007, give the municipality far broader powers to act on behalf of the welfare of its inhabitants, including animals. However, I believe it is important that the regulation and control of zoos remain the responsibility of the province. Municipalities have neither the financial resources nor the expertise to take this on. And to license in one municipality means that the problem simply moves on to the next one, just as roadside zoos have proliferated in Ontario because all other provinces have made them accountable. Licences

can be a powerful tool in dealing with the treatment of exotic animals proactively through standards of care and captivity, training of personnel, public safety considerations, and inspection of premises prior to the issuance of a licence. I would hope that the standards required by such licensing would be high. At present, even some “reputable” licensed establishments seem to have low expectations of themselves. We need to know that when we take our children to the zoo, it is truly an educational experience and we are not subjecting them to becoming unwitting witnesses to animal abuse.

Despite the fact that I am happy to see the province take the lead on the issue of animal welfare, I am especially pleased with the new section 21 of the act, which provides that a municipality may enact bylaws that afford even greater protection to animals. I’m happy that it is included here. That type of provision was missing from the recently enacted pesticide legislation. It will allow our animal welfare groups to continue to demand ever more from our council and we will not be able to blame the province for failure to respond.

Thank you for your consideration of this submission. I’ll be happy to answer any questions.

The Acting Chair (Mr. David Zimmer): Thank you. We have about two minutes per caucus, beginning with the Liberals.

Mr. Khalil Ramal: Thank you very much, Controller Barber, for your deputation. I know you are a great advocate on behalf of the welfare of animals in the city of London and region.

I just want to assure you that the essence of Mr. Zimmer’s bill is embodied in this bill. The aim and goal of this bill is to create some kind of animal welfare across the province of Ontario. Our aim and goal is to make sure that no animal will be abused in any circumstances, which you and I have talked about many different times in terms of roadside zoos, which Mr. Zimmer initiated in his bill and which got a lot of attention across the province and across Canada. Many other countries have followed his lead in terms of creating some kind of awareness and also rules and regulations to protect animals under our control. Thank you very much for your deputation. I want to assure you that the bill will speak to your concern.

The Acting Chair (Mr. David Zimmer): The Conservatives, two minutes.

Mr. Toby Barrett: You indicated your disappointment that MPP Zimmer’s bill, although not entirely abandoned, didn’t receive fulsome consideration. This legislation doesn’t use the word “zoo” at all, and I don’t know whether that’s a problem or not with respect to roadside zoos or petting zoos or any kind of zoo. Do you feel that amendments should be brought forward to this legislation, or do we just wait for the staff to do regulations to try and cover off some areas that may have been abandoned? Or should we have another round of hearings with respect to the regulation process? I wasn’t aware of the proliferation of roadside zoos. I do a lot driving; I just don’t seem to see them anymore. I don’t

know where you swing in to show your kids these animals.

Ms. Gina Barber: Someone may stand to correct me, but I do believe there are about 47 roadside zoos in Ontario; there are a great many of them available here in southwestern Ontario, in particular. We've had a number of instances in which we've had to rescue animals from some of those places because of the treatment. Some of them are not regarded as zoos, but educational exhibits, so I would be happy with any wording. The word "zoo" is not necessarily the only word that would need to be used. I'm happy with the concept of "any place," and I think it is in the legislation, as I mentioned, where animals are exhibited, sold, used for entertainment and so forth. So I think that would probably be sufficient. It is the licensing aspect, I think, that is particularly important.

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The Acting Chair (Mr. David Zimmer): We'll move to the NDP. Ms. DiNovo.

Ms. Cheri DiNovo: We were certainly supporters of Mr. Zimmer's bill when it first came forward. Thank you for your deputation; it was very thoughtful and wise.

A question, and this came from another deputant, who raised the issue. She's from a humane society in the environs, and she raised the issue of the training of OSPCA officers when investigating exotic animals, for example, to go back to the issue of roadside zoos or educational exhibits, whatever you want to call them. Her concern was that they don't have the education to be able to ascertain whether exotics, for example, are being abused or not. I was wondering if you could speak to that, perhaps.

Ms. Gina Barber: I think that's particularly why I'm asking that the province deal with this, as opposed to municipalities, because it does require additional resources to make sure that there's adequate training for the inspectors, as well as the trainers, but particularly for the inspectors. I've heard that expressed many times since I've been here in the various submissions, the concern that warrantless entry may be made by people who may not be trained and that it might endanger the lives and welfare of the inspectors themselves, because they do enter dangerous situations from time to time. I think that certainly more training for inspectors is really important, and to include that in the bill.

The Acting Chair (Mr. David Zimmer): Thank you for taking the time to present before the committee this morning.

Ms. Gina Barber: Thank you, and thank you, Mr. Zimmer, for your efforts.

ONTARIO SOCIETY
FOR THE PREVENTION
OF CRUELTY TO ANIMALS,
OXFORD COUNTY BRANCH

The Acting Chair (Mr. David Zimmer): The 10 o'clock slot is the OSPCA, Oxford county branch: Darren Grandel, senior inspector. Mr. Grandel, you'll

have 15 minutes. I'll give you a three-minute warning as you get towards the end of the 15. You may want to leave time for questions from members of this committee, but that's your decision. If you'll identify yourself for the record.

Mr. Darren Grandel: My name is Darren Grandel and I'm a senior inspector with the Ontario Society for the Prevention of Cruelty to Animals for the west region, based out of the Oxford county branch in Woodstock. Essentially, what that translates into is that all the agents and inspectors throughout southwestern Ontario report to me, any who are appointed under the act.

I'm very thankful to be able to come here and speak in support of Bill 50. I'm sure you are all aware that the current OSPCA Act is quite dated and pretty much only enforces any sort of standards of care for dogs or cats that are kept for breeding or for sale.

The first point that I wanted to touch on is that there's a lot of discussion about section 6 of Bill 50, about who can call themselves a humane society. First off, the 31 affiliated societies of the OSPCA, should Bill 50 become law, will still be affiliates and won't be changing their names, I imagine. But for me, this is a very important clause and a good one, because it pertains to the outside agencies that are not affiliates or directly operated by the OSPCA. It's important for public clarity that if people phone an organization called the OSPCA or the humane society, they need to feel secure that they are calling the enforcement agency to investigate cruelty or neglect to animals. They need to be secure in knowing that their information is taken seriously and confidentially. The OSPCA Act gives a lot of power and authority to investigate crimes, and so people need to feel secure in knowing that their information is going to be taken by that agency, and it requires a clear distinction on that so that there are no other agencies that people could call and it's not going to the right people.

To me, it's the same logic as to why a security service would never call itself a policing service. There has to be that distinction. There are similarities between us and other animal welfare groups, but there's a clear distinction when it comes to the OSPCA Act, and I think the community really needs to know that there is that distinction, that if they're calling a humane society "SPCA," that's who they're getting.

The next point I want to touch on is the aspect of training and accountability with the OSPCA. First off, our training: Our recruitment process is quite in-depth and prolonged to make sure we get the right fit for the right position. After that, a person doesn't automatically become an agent after recruitment. Currently they have to take two weeks of initial training, and that's part and parcel thanks to the Ministry of Community Safety and Correctional Services for a grant for us to provide training. With a recent increase in that, we're looking to make that initial training four weeks for 2009. That's the same amount of initial training you would receive to become a special constable in this province.

On top of the initial training, there are also 50 calendar days every year devoted to training for the OSPCA for all

agent inspectors. Every agent inspector is required to take a minimum of three continuous days throughout the year. They can take more if they wish, but the minimum is three.

For training, we use an ex-principal training officer at the Ontario Police College, who created his own training and consulting firm which is recognized in nine countries for law enforcement instruction. We also use an Algonquin College professor in the justice studies program, who's an ex-RCMP officer, amongst his other credentials. He created OSPCA-specific modular training for us, which has been going very well.

We use crown attorneys and police officers to come in and teach us and update us on recent court decisions, case law decisions, updates on investigative techniques and legislation.

As we gain accountability through training, Bill 50 has a big aspect to this, in that it creates the position of a chief inspector and allows the chief inspector to set out the requirements and look after the appointments of agents and inspectors. Right now it goes to the board. We can set these criteria for training, but it all has to go to the board. There would be more front-line observation and supervision with this position of the chief inspector.

As I get into accountability, there is a perception that because we're not publicly funded—we're a charity—we're not accountable and we go out and do things the way we want them to be done. But I have to say—and dare I say it—that we're as accountable as a publicly funded law enforcement agency. First and foremost are the powers that the OSPCA Act gives us: It makes us peace officers, which makes us bound to the Charter of Rights and Freedoms. As we investigate any call about cruelty or neglect, we're bound by the charter to protect people's rights when we do entries either with a warrant or without. We're bound to ensure we're protecting people's charter rights.

Within the act itself, when we issue orders or do removals of animals, we're accountable through the independent tribunal of the Ministry of Community Safety and Correctional Services, the Animal Care Review Board. People have that avenue to appeal to that board.

When we lay charges, we go to court. We have to make sure we've acted in a professional, ethical manner, utilizing our training. When we go to court, of course, the officers' actions, the actions of the OSPCA, get put under the microscope for credibility. So the OSPCA, in my opinion, is a very accountable agency. We're a charity, which also makes us accountable to Revenue Canada.

The next point I wanted to touch on is stats. I know the committee's heard from people who were upset with their involvement with the OSPCA, which is fine, and I'm certainly not here to minimize their concerns. But what that makes me want to bring up in relation to stats is that by giving you the numbers, I think, by extension, you'll see that in the vast majority we deal with issues more so through education and informing and compliance work.

In 2007, we had 16,834 complaints received. Of those, there were only 2,581 orders issued—and by orders, I

mean that under the OSPCA Act, an order was issued to the owner to relieve distress—a vet check or food and water provided or something of that nature. There were 254 provincial or criminal charges laid and there were 30 appeals launched to the Animal Care Review Board. To me, these numbers speak volumes. Our mission statement is “to facilitate and provide for province-wide leadership on matters relating to the prevention of cruelty to animals and the promotion of animal welfare.” I think these stats prove that we first choose to educate and inform people on animal welfare and to prevent further cruelty.

The last point I wanted to bring up is what's known as the link. That refers to the link between animal cruelty and violence towards other human beings. There are decades of research showing that animal cruelty is a precursor to other forms of violent crimes. Even regionally, the AK case, a dog in Windsor, whose owner took a serrated kitchen knife and cut off its ears while it was alive and conscious, just for the sole purpose of making it look more menacing. By the time he reached a conviction point in court, he had already been in custody for over a month for other crimes that he had committed since the act of cruelty. There was local proof for me that this research is pretty conclusive.

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One of my favourite quotes is from Dr. Randall Lockwood of the Humane Society of the United States, who says that while not everyone who abuses animals becomes a serial killer, every serial killer first abused animals and escalated on to more serious forms of crime.

John Douglas, the famous FBI profiler who pioneered behavioural analysis, has a homicidal triad that outlines three behaviours in youth; that if a youth is displaying these three behaviours, he's willing to guarantee they will kill someone if they go without treatment later in life. Those three behaviours are (1) cruelty to animals, (2) arson and (3) late bedwetting.

Bill 50 can make a big difference in this province for animals. This research, to me, shows that by protecting animals you also protect people, and Bill 50 cannot only save the lives of animals, but I'm confident, even though it's hard to tell, it can also save the lives of people. By getting people adequately investigated and acts of cruelty adequately put through the courts, I think that can prevent people from going on to other forms of crime once they've been adequately investigated and put into the justice system at the animal cruelty level. That's why I think this bill will make Ontario a leader in animal welfare. Thank you very much.

The Acting Chair (Mr. David Zimmer): Thank you. We have about two minutes per caucus, beginning with the Conservatives.

Mr. Toby Barrett: Thank you, Mr. Grandel, for coming before the committee. You talked about the training that inspectors receive—police training, training from crown attorneys. Do they also receive training from veterinarians or from people skilled in animal behaviour?

Mr. Darren Grandel: We do, yes. Our initial training does have training from veterinarians on basic signs of

distress, recognizing disease and distress in animals. Throughout those 50 calendar weeks is sporadic training on issues that come up, like exotic animal training from exotic animal veterinarians and stuff like that.

Mr. Toby Barrett: You mentioned you had a number of inspectors report to you and then you report up the line, ultimately to a chief inspector. Is that person a veterinarian?

Mr. Darren Grandel: No, the chief inspector is not a veterinarian.

Mr. Toby Barrett: And then you do at present in your work, or the people who you work with, go onto properties without a warrant on occasion; is that true?

Mr. Darren Grandel: There are some prescribed ways within the act to enter a property without a warrant, and that's basically if we observe an animal in immediate distress any place other than a dwelling, then we're allowed to enter without a warrant to attend to the animal.

Mr. Toby Barrett: And how often do you have to put a sick or diseased animal down—percentages within the western region?

Mr. Darren Grandel: I apologize; I don't have a percentage with me. It does happen, of course, but most of the time when we've removed an animal that's ill—it always goes to a vet. So I can say, through an investigation, an animal has not been put down based on our decision—not a veterinarian's.

Mr. Toby Barrett: Oxford county is a livestock county. How often do you have to go on farms?

Mr. Darren Grandel: Quite often. Yes, in the rural areas there are a lot of farms. The Oxford branch also looks after Elgin county and there are a lot of farms. I'd say, depending on the location, in the Oxford area 25% to 50% of the calls are to farm locations.

Mr. Toby Barrett: Thank you.

The Acting Chair (Mr. David Zimmer): To the NDP.

Ms. Cheri DiNovo: I was just wondering about the stats, the 16,000. Who collected those stats?

Mr. Darren Grandel: We collect those. We have policy procedures for every branch and affiliate to report their numbers monthly.

Ms. Cheri DiNovo: This points to a problem that has been brought up in deputation, which is oversight of the OSPCA. Although the stats, for example, may be absolutely accurate, it's difficult to ascertain, when there's no oversight of an agency, if what you're saying is accurate or not. That's been one of the calls for oversight. I just want to point that out. And transparency; we had a deputant say they tried to find your bylaws and couldn't find them and they weren't forthcoming. I was wondering if you could comment about that comment.

Mr. Darren Grandel: About the bylaws? Whenever I receive a request for the bylaws I always give that to my chief inspector. I apologize, I can't exactly help you out with that.

Ms. Cheri DiNovo: Okay. And the other aspect: The section 6 concerns come, in part, from humane societies across the province, particularly the Toronto Humane

Society. Their concern is that if they did want to disaffiliate from the OSPCA, they'd lose their name of 121 years' status. They point out that their euthanasia rate is 6%; I understand yours is 12%. So there are valid concerns coming from humane societies about that section; that's why we, in the NDP, have concerns about it. Certainly we're on the same page, we all want the best for animals, but we also want the best for those people who want the best for animals. So that was a concern there.

In terms of the training, again, we heard a concern from deputants that all people can't be all things to all animals, and I'm sure you would agree with that. You can't know everything, not even with four weeks' training, which I know is double what you get now but still doesn't sound like a lot. You're not a veterinarian. Our concern is, when you do go in to look at, say, exotic animals or animals you're not familiar with, that a veterinarian or a CAZA representative, somebody else, is present. Is it your understanding that that's going on now in the OSPCA?

Mr. Darren Grandel: We do that a lot. Our training isn't to diagnose; it's just to recognize signs that would basically have us take a step back and say, "I'm going to need an expert to go further with this." So even with domestic animals, it's not to diagnose; it's to recognize problems, and that's it. Like you said, we can't possibly know everything for every species of animals, but we can know the basic signs of disease and distress.

Ms. Cheri DiNovo: Thank you very much for coming and deputing.

The Acting Chair (Mr. David Zimmer): On that note, we'll move to Mr. Levac.

Mr. Dave Levac: Thank you very much for coming and presenting and actually bringing some clarity to some of the sides that have been presenting the OSPCA as somewhat less than noble. I, on behalf of all of us, I believe, thank all of those people who have dedicated their lives, as paid staff and as volunteers, through all of the organizations. You have our deepest gratitude for the amount of work you do in taking care of animals on the planet. That sounds Pollyannaish, but quite frankly, we cannot be arrogant anymore about how our planet operates—and we need the animals to do so.

You talked about the special constable four-week training, which is equal to a special constable with powers. There is ongoing training that continues for a member who's been hired by the OSPCA. Can you answer this question: Are you, as a supervisor of an area, responsible to discuss, review, and report on someone's behaviour if it seems to be overly zealous or if it's not quite up to what the training tells them they're supposed to do?

Mr. Darren Grandel: Yes, absolutely.

Mr. Dave Levac: Has that happened?

Mr. Darren Grandel: Yes.

Mr. Dave Levac: And you have corrected some behaviours of agents?

Mr. Darren Grandel: Yes. Like every organization, we have deficient behaviour. We get public complaints that get investigated—some are valid and some are unfounded—and we deal with those appropriately.

Mr. Dave Levac: Thank you very much. I appreciate that.

The Acting Chair (Mr. David Zimmer): Thank you very much for taking the time to present to the committee today.

ANNE PAPMEHL

The Acting Chair (Mr. David Zimmer): Anne Papmehl. Ms. Papmehl, you'll have 15 minutes to present. I'll give you a three-minute warning as you approach the end of your time. You may or may not want to leave time for members to ask questions, but that's your decision. Please identify yourself for the record.

Ms. Anne Papmehl: Thank you very much for giving me the opportunity to speak this morning.

First of all, I want to say bravo for drafting this bill. I applaud our provincial government for taking action to update and amend the 1919 OSPCA Act. This long-overdue amendment will establish the harshest penalties in the country for animal abuse, give the Ontario SPCA more power to carry out their inspections and investigations, and institute standards of care for all animals.

However, there is one thing, in my opinion, that the bill does not go far enough to address, and that is the welfare of wild animals in captivity, both native and non-native species. While Bill 50 includes allowing the SPCA to inspect facilities that keep wild animals for public display and entertainment, which essentially defines a zoo, and which is a huge step forward, I feel it's imperative that more comprehensive zoo regulations and standards be established under this act, and in my presentation I will make the case as to why.

Before I do that, I'll state briefly my background and interest. I am a writer and researcher by profession. I volunteer with a local animal rescue group and a wildlife rehabilitation centre. I own a number of rescued animals. I am member at large on the city's animal welfare advisory committee. I'm a supporter of WSPA, which I'm sure you've all heard of.

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I have concerns about this issue because there are many people who keep wild animals in roadside zoos or as pets in this region of the province. I first started following this issue in February of last year when I attended a WSPA presentation here in London. This was around the time that Mr. David Zimmer's private member's bill, Bill 154, the Regulation of Zoos Act, was being introduced, but which, as we all know, died before last year's provincial election.

WSPA has been asking the provincial government to address and regulate the keeping of wildlife in captivity, particularly roadside zoos. Since 1985, WSPA and Zoocheck have produced eight comprehensive reports on Ontario roadside zoos. All have identified severe animal

welfare as well as human safety concerns that remain unaddressed today. While there are existing regulations to keep native wild animals, which require owners to obtain a licence from the Ontario Ministry of Natural Resources, those regulations apply to less than one third of the animals currently kept in Ontario zoos. Licence conditions are minimal, vague and poorly enforced. Moreover, Ontario does not regulate the keeping of exotic, or non-native, wild animals in zoos and in wildlife displays.

In 2005, Dr. Ken Gold, who is a zoo specialist with over 25 years working with some of the best zoological facilities around the world, was asked by WSPA to assess the conditions of 16 of the 45 Ontario zoos—45 as of last year; these are the latest figures that I have—on basic standards of animal care and safety. According to his findings, 85% of the zoos failed the grade, both in terms of animal welfare and public safety. Among his documented findings surrounding animal care alone were the following:

- animals crammed into barren, undersized cages with little room to move and no comfortable places to sleep;

- filthy cages, with animals forced to lie in their own waste;

- animals engaging in abnormal behaviours, such as pacing, self-mutilation, rocking, chewing cage bars or extreme lethargy; monkeys gone mad from years of confinement, rocking back and forth; birds pulling out feathers from stress and boredom;

- nocturnal animals forced to endure bright lights all day, social animals kept in isolation and solitary animals kept with other animals; and

- animals unable to engage in natural behaviours, such as hopping, foraging, climbing or flying.

In addition to the unacceptable animal welfare standards, Dr. Gold also found significant risks to human health and safety, including the following:

- poorly constructed cages and enclosures;

- inadequate fences to contain potentially dangerous animals, such as big cats or bears;

- lack of double-door entry gates into cages;

- lack of secure containment area to sequester animals during cleaning;

- lack of stand-off barriers to keep the public away from the animal cages;

- unlocked or poorly secured cage doors and gates; and

- inexperienced, poorly trained staff.

These conditions put the public, including zoo staff, at risk of disease, injury or death. For example, at a roadside zoo in Peterborough, a 12-year-old girl had her finger bitten off by a monkey. Over a 20-month period, from the middle of 2005 to early 2007, there were seven documented escapes. Now, if you happen to be talking about a lion, tiger or another exotic cat or perhaps a bear, you're talking about a serious risk of injury or death to the public.

In Shedden, Ontario, a man who happens to be the next-door neighbour of some friends of mine was known to keep tigers on his property, and he would sometimes let them out of the cages to roam on his property—an extremely dangerous practice. Neighbours were highly distressed, fearing for their safety, and lobbied to have the wildcats removed from his property. Unfortunately, their efforts did not result in any action. That is because of our current legislative anomaly which permits the keeping of non-native wildlife, and sometimes very dangerous wildlife, without a licence. As a result, there was nothing the community could do. This is an unacceptable situation and clearly indicates a regulatory gap that needs to be closed.

The consequences of this legislative inconsistency are borne by society, sometimes in very costly ways. For example, you may recall a news story about a Toronto man, a former pet store owner, who rented a semi-detached house next to a rooming house in Toronto. He kept a number of highly venomous and deadly snakes. In September 2006, his massive male Egyptian cobra went missing somewhere in the house, forcing the evacuation of all the tenants in the rooming house next door, some of whom had lived there for years. Another snake, a two-metre gaboon viper, was found inside an insecure aquarium. This situation was to endure until the lost snake could be found; to the best of my knowledge, it never was. The situation dragged on for months and months. The rooming house tenants were suddenly homeless. The owner of the rooming house was estimated to have lost almost \$11,000 in rent money and the owner of the house that the collector was renting from was out of pocket \$6,000 as of February 2007. That's the last information that I have on this particular story. He was also unable to renew his home insurance or rent the house in future because of all the attention and notoriety on the property. Consequently, he suffered a huge financial and emotional burden. In addition, there were substantial damages to both houses as a result of having experts come in to take them apart, searching for the missing snake, which, as I said earlier, was never found.

My question is, why are situations like these, which put innocent members of the public at serious safety risk as well as causing financial losses and displacement, allowed to occur? It's because the current legislation does not protect animals or the public from irresponsible private collectors or owners.

Fortunately, we have a solution. I understand that WSPA has provided you with a list of four recommendations to address the massive gaps in Ontario's zoo licensing regime and the keeping of wild animals in captivity and has suggested that these could easily be incorporated into section 11.1 of the bill. I would strongly suggest that the provincial government consider this option. It is imperative that legislation be introduced that will require all zoos to operate at a professional standard or be closed. This issue has been dragging on for far too long.

Before I wrap up, I have a few remarks and questions concerning two other categories of animals, one that Bill 50 covers and one that it doesn't.

The first is animals used in agriculture. It is my understanding and expectation that farm animals are protected under this bill and that there will be exemptions for generally accepted practices. I hope that if a farmer exceeds the bounds of reasonably acceptable behaviour, he or she could still be prosecuted under this bill. I would ask, then, do all committee members support this interpretation? I recognize that the challenge lies with defining what a reasonably acceptable behaviour or practice is. I also understand that the government does not want to make anything that is currently legal illegal. But I do ask this committee to consider the fact that some practices which are currently deemed acceptable should be improved to meet more progressive animal welfare standards.

The Acting Chair (Mr. David Zimmer): Three minutes.

Ms. Anne Pappmehl: Thank you. We are far behind European countries in this respect. As well, people's attitudes toward animals are changing, and animal welfare science is also constantly providing us with new information. So when you define what a generally accepted practice is, I would ask you not to entrench practices that should be encouraged to improve over time. Perhaps the exemptions for generally accepted practices should contain the proviso that the activities be conducted as humanely as practically possible. This is the wording that the Yukon Animal Protection Act uses in its exemption for generally accepted practices.

The other animal category is animals in research, which Bill 50 excludes. These are covered under the Animals for Research Act, and for this reason I did not plan to address this issue today, although I would have liked to. I was under the impression that because of this exclusion, we presenters were not to address it. However, in looking at the list of speakers, I noticed some names of people from the city's medical and scientific community who I know to be users of and advocates for animals in research, something I find rather curious because, if the animals in research are excluded from Bill 50 anyway, what query could they possibly have with this bill, and why are they addressing it in this particular forum? Having said that, I will state very briefly that if ever an animal category was in need of more humane standards, it is these animals.

It is a well-established fact that some of the most egregious forms of animal cruelty take place in research laboratories daily. In fact, the Canadian Council on Animal Care, which oversees animals used for research, has reported that in recent years, researchers seem to be inflicting more pain than necessary on animals. Given that CCAC is a self-regulating and self-policing body, my question may be more rhetorical than anything, but I'll ask it anyway: Under the current Animals for Research Act, can the Canadian Council on Animal Care report to the Ontario SPCA any unlawful activities that result in unnecessary cruelty to an animal? My guess is

no. Therefore, I would suggest that animals used for research also be protected under Bill 50 and that, if the Animals for Research Act needs to be amended to accommodate this, then it should be done.

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In closing, I would like to commend the Liberal government once again for promising to address animal welfare. Bill 50 is a great start, but it needs a bit more work to be all-encompassing. In particular, the bill needs to go further to address wildlife in captivity, because it is both an animal welfare and serious public safety issue. Thanks to the tireless efforts of WSPA, this can be incorporated very easily into the bill, so I encourage our provincial government to do so. Also, the bill must ensure that other categories of animals, such as animals in agriculture and research, are more adequately accounted for. All animals deserve the right to protection from unlawful and unacceptable acts of cruelty.

This concludes my presentation. Thank you again for letting me speak today.

The Acting Chair (Mr. David Zimmer): You've used your 15 minutes, so on behalf of the committee, thank you very, very much for taking the time to organize your presentation and attend today.

CHARLOTTE McDONALD

The Acting Chair (Mr. David Zimmer): The 10:30 slot: Dr. Charlotte McDonald from the department of medicine, University of Western Ontario. Dr. McDonald, you have 15 minutes to do your presentation, and I'll give you a three-minute warning as you get to the end of it. You may or may not want to leave time for questions from the committee, but that's your decision. If you would identify yourself for the record.

Dr. Charlotte McDonald: My name is Dr. Charlotte McDonald. I'd just like to clarify that I do not represent the division of endocrinology or the department of medicine. I do work there, but I'm not here representing that entity today.

The Acting Chair (Mr. David Zimmer): So the record will show you're here in your personal capacity?

Dr. Charlotte McDonald: Yes.

The Acting Chair (Mr. David Zimmer): Thank you.

Dr. Charlotte McDonald: I am a physician, I'm a medical researcher, I'm a hunter, I'm a pet owner and I'm a concerned citizen, and therefore I do profess to a significant interest in this bill.

I would like to start by saying that the government is to be commended for taking initiatives to protect animals from abuse and neglect, including the use of fighting animals for entertainment and the operation of puppy mills, where animals are subject to neglect or poor conditions. However, there are several areas of the proposed legislation that I find alarming and dangerous and that threaten our rights under the Charter of Rights and Freedoms. I urge the committee to consider the discussion and the recommendations that I have included in the written brief that I have provided, but in the interests

of time I will not discuss all these recommendations here today.

Today, I would like to emphasize several key concerns that I have.

The first is how Bill 50 might be used to interfere with hunting and fishing, especially hunting with dogs, by invoking the section about animals being caused distress. Hunting is a right granted to citizens of Ontario under the Heritage Hunting and Fishing Act. The Fish and Wildlife Conservation Act is in place to license and regulate hunting, including the protection of wildlife species, by regulating seasons and methods of hunting. Enforcement is undertaken by officers of the MNR. While section 11.2(6) does note exemptions to the bill, including native wildlife and fish in the wild in prescribed circumstances or conditions, these are not clearly defined. What are these circumstances and conditions and how are these defined?

To avoid conflict with existing hunting legislation, I would ask that a specific clause be added to change subsection 11.2(6) to state that 11.2(1) does not apply to fish and wildlife being lawfully hunted in accordance with provincial laws and regulations.

In subsection 11.2(2), "distress" has been very clearly defined, but the definition includes some ambiguous wording of "subject to undue or unnecessary hardship, privation or neglect." This definition of "distress" needs to be clarified since it could lead to subjective interpretations of how animals should be cared for, based on an individual's personal beliefs.

I know of several stories where OSPCA inspectors have investigated cases of reported neglect, one involving a racehorse which had just come off a track and was in lean condition, as a racehorse should be. The neighbour complained that the animal was being starved, and when a vet showed up, it was very clear that the animal was just in racehorse shape.

Subsections 11.2(3) and 11.2(4) pertain to fighting of animals. This amendment is presumably designed to prevent the training and permitting of animals to fight with other animals for entertainment, including dog-fighting and cockfighting. Conceivably, an inspector or agent could claim that a fight may occur during the use of dogs for hunting. I request that you include an exemption for subsections 11.2(2), (3) and (4) that reads, "This section does not apply to dogs or raptors engaged in lawful hunting."

The points that I have made so far also apply to the use of animals for the purposes of biomedical research, and to the people who perform the research and who produce animals for the purposes of research. You will be listening to other presenters on this topic, so I will not expand on this point today, except, unlike the previous speaker, to urge you to clearly exempt these activities from the OSPCA Act.

The second major area of concern I have is with the extraordinary powers granted to the OSPCA by this act. These must be restricted to avoid the abuse of power. These people are not police officers and should not be

granted police powers. I have special concern with the powers granted in section 11.4 that allow inspectors to enter any place without a warrant based on suspicion but not direct observation of immediate distress. Just as police officers must obtain a search warrant, the OSPCA should also be required to obtain a warrant based on reasonable grounds of suspicion of distress.

I am also very concerned that inspectors might be permitted to inspect certain types of establishments without suspicion of distress, such as boarding kennels and zoos. This law should specifically exclude the power to search any private establishment, including kennels that keep dogs for private use and not for the purposes of commercial breeding. If public premises such as roadside zoos are to be inspected, this must be clearly regulated after consultation with these groups to include requirements such as giving reasonable notice of inspection and also setting out what regulations should be in place for these establishments.

The third area of concern that I have is with the accountability of the OSPCA. It must be accountable to government and to the public in general. The amendment in section 6.1 that would include inspectors and agents of other societies affiliated with the society to be included under references to "inspector" in this bill must be reconsidered. All inspectors and agents must be appropriately qualified and must be subject to the same screening process. Chief inspectors and agents should be appointed by a board that includes members of the police services and other interest groups, veterinarians, members of the Ontario Federation of Anglers and Hunters and of the Ontario Federation of Agriculture. They must be appropriately qualified and trained in animal care, as well as law enforcement procedures and policies.

Inspectors of the OSPCA should be carefully screened to ensure that they do not adhere to or support specific animal rights agendas. The OSPCA website clearly condemns the hunting of wildlife for sport, which is a lawful, regulated and accepted practice in the province of Ontario. The OSPCA has no mandate to interfere with issues that affect native wildlife, since these are covered under the MNR.

I should note that if the OSPCA is providing money to the Liberal government, this must be clearly acknowledged and this is a clear conflict of interest, since it is an agent of the government.

Not everyone agrees with the practice of hunting, and everyone is entitled to express and live by his or her own beliefs. However, this should not be mandated by the state or by agents of the state, including, by extension, the OSPCA. It should support all the laws of the province, including the right to hunt and fish, and should not try to use the legislation of the province to put forth its own agenda. If it chooses to oppose hunting, it should not interfere in any way with the regulation of hunting-related activities. These same ideas also apply to the use of animals for the purposes of biomedical research. In fact, it is against the law to interfere in any way with legal hunting practices.

I would ask the committee to remember that animal rights groups have denounced the actions of the MNR, and they have denounced medical research. Persons with these agendas have conducted terrorist activities in Canada and other countries and do not belong in positions that have been accorded the power of a police officer. Animal welfare and animal rights are very different concepts, and the OSPCA must be restricted to promoting animal welfare.

Government agencies charged with the duty of protecting animals from abuse and neglect should represent the views of society as a whole, including farmers, researchers, hunters and all other private citizens. Protecting animals is extremely important. However, the pursuit of animal welfare must never supersede rights accorded to members of our society under the Charter of Rights and Freedoms.

The last concern I wanted to raise today is that of section 21, which states that "in the event of a conflict between a provision of this act or of a regulation made under this act and of a municipal bylaw pertaining to the welfare of or the prevention of cruelty to animals, the provision that affords the greater protection to animals shall prevail." This is unacceptable. Regulations governing animal care across Ontario should be standardized and consistent. The OSPCA Act needs to receive extensive public consultation and should supersede any municipal bylaws that apply to domestic animal welfare, if they are found to conflict with this act. The Heritage Hunting and Fishing Act, the Fish and Wildlife Conservation Act and the Animals for Research Act should also prevail over the OSPCA Act and this should be explicitly stated in this bill. Similarly, the possibility that ministry officials may make amendments to this bill without public consultation, as outlined in regulation 22, must be excluded. I might add that I feel the timeline of September for this bill to go to third reading is too short. We only had five days' notice to prepare a response to this bill and with everyone on summer holidays, I think you need to come back with some further write-up of this bill so that we can review it again.

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In summary, it is extremely important for our society to have effective legislation to protect animals from abuse and neglect. This legislation must be clearly defined and must leave no room for interpretation. It must be free from bias of animal rights organizations. It must not impede or impinge upon accepted practices that have been sanctioned and regulated under separate legislation. Hunting, fishing, farming, conducting medical research and the production of animals for food and for the purposes of medical research must be protected. Officials of the OSPCA have been given an important task and must be appropriately qualified and regulated. They must not, however, be accorded extraordinary powers that could allow animal rights agendas to supersede the rights of society—that is, human rights. The OSPCA must represent the views of society as a whole and not have the opportunity to carry out activist agendas while presuming to conduct affairs of the state.

Thank you for providing me with the opportunity to participate in this important process. I would like to take your questions.

The Acting Chair (Mr. David Zimmer): Thank you. About a minute per caucus, beginning with the NDP.

Ms. Cheri DiNovo: Thank you, Dr. McDonald, for your deputation. You heard my comments to the OSPCA inspector. We also share some concerns about oversight of a body that both gets government grants and performs, in a sense, de facto government functions. So thank you very much.

Mr. Dave Levac: Thank you very much for your deputation, Doctor. I appreciate your passion. The question I have is, are you aware that the warrantless entry is already in existence in the bill and that there's a modification of some wording—which I don't necessarily agree that it becomes an extreme power, but a definition or a defining of what that capacity is.

Dr. Charlotte McDonald: My understanding is that the warrantless entry was allowed when there was evidence of immediate distress, but in reading the bill, it appears to me that there doesn't have to be direct observation now, only suspicion. So if a neighbour phoned up to say that I was abusing my dog, you could come in without a warrant, whereas previously it required immediate observation of the distress.

Mr. Dave Levac: The example I would give, then, would be not necessarily the extreme but the practical. If I didn't have a warrant, I couldn't open a trunk of a car if I heard a dog yipping. But if I saw the dog in distress in the window, inside the car, I could break the window and go in, if it wasn't in the trunk.

Dr. Charlotte McDonald: I don't know that direct observation could also include other forms of observation, including hearing things or seeing things, but should not be based on hearsay or a complaint from another citizen. That should include a warrant.

Mr. Dave Levac: Good point. Thank you. I appreciate your efforts.

Mr. Toby Barrett: Thank you, Dr. McDonald. We do have the right to hunt and fish in the province of Ontario; I helped bring in that legislation. I feel it would be impossible for this legislation to overrule that heritage hunting act. However, as I understand it, and maybe you would know better, this legislation would not supersede municipal bylaws that can be brought in that are even more stringent than this legislation. Is that correct and is that—

Dr. Charlotte McDonald: There is a sentence in the bill that stated that if it was found to be in conflict with any municipal bylaws, whichever law accorded the better protection of animals would prevail, which is unacceptable. We need to have standardized laws across this province.

Mr. Toby Barrett: As far as putting one animal against another to fight, we oppose that, of course. But you mention the use of raptors in hunting, and I think if you have sheep in an open area, you have to have protection. You have to have a dog to fight off coyotes,

for example, or other dogs. Is there going to be a concern here if you are putting a dog against another dog to prevent lambs from being killed?

Dr. Charlotte McDonald: We are concerned that animal rights organizations or inspectors of the OSPCA may try to claim that hunting with dogs is in fact animals fighting for entertainment, which it is not. That's why we ask for a specific clause to exempt hunting with dogs from this fighting clause.

Mr. Toby Barrett: And as far as livestock, I think of sheep, and people should be aware of what a dog can do. They always go for the hindquarters of a sheep when they kill it, and it's not nice to look at.

Dr. Charlotte McDonald: I think farmers should retain the right to use dogs to protect their livestock from wildlife.

The Acting Chair (Mr. David Zimmer): On that note, thank you very much for taking the time to present to this committee.

Members, we're at the 10:45 slot. I understand, Mr. Levac, that you're going to deal with the matter that you wanted to deal with earlier in the morning.

Mr. Dave Levac: Thank you, Mr. Chairman. At the agreement and suggestion of some of the deputants, I'll provide some clarity on some issues that I made the commitment to do. I thank the opposition for agreeing to have some of that information made purveyable. It's not to influence any one way or another; it's to try to provide some information. Those pieces of information were the statistics on the complaints and the ACRB, and the resignation issue in terms of the numbers, which may or may not have been understood. The other issue was funding. I'd like to provide those.

One of our deputants did go over the numbers but I'd like to repeat them for the record. The general statistics information for 2007: Of the 7,752 compliance orders and animal removals, 35 were appealed to the Animal Care Review Board.

OSPCA statistics of 2007:

—16,834 complaints were investigated;

—254 charges were laid: 211 Criminal Code charges, 43 provincial offences charges;

—2,581 compliance orders, which were actions required to relieve an animal's distress;

—5,171 animals in distress removed.

In the ACRB, the Animal Care Review Board:

—35 appeals of those compliances or removal orders were received;

—17 appeals were rejected, abandoned or resolved prior to the hearing;

—18 appeals had been completed in hearings and decisions. Although decisions are often complex, in the view of the ACRB chair, 12 upheld the OSPCA action, four modified the OSPCA action, and two revoked the OSPCA action.

The ACRB produces an annual report that is publicly available, and I'll provide these sheets to the opposition and to the members of the committee as well.

The OSPCA are required to inform anyone receiving a compliance or removal order that the order may be appealed to the ACRB. So it's not secret, as one deputant indicated. That information is printed each year.

On the board resignation issue, in approximately March 2006, eight OSPCA board members resigned. That left the board with 10 sitting members. The mix of reasons given for the resignations included objections to the OSPCA providing law enforcement without government funding for those operations, and concerns regarding certain OSPCA budgeting practices. Previously, two other board members had resigned for unrelated reasons. At the time, the full OSPCA board was supposed to be 30 members—12 branch representatives, 12 affiliate representatives and six members at large—but only 20 were elected at the 2005 annual general meeting. At the 2006 annual general meeting, a bylaw was passed to change the makeup of the board to 10 affiliate representatives and two branch representatives.

Regarding the total funding, for the clarification requested: in 2007, \$600,000. The OSPCA had their annual training grant increased from \$119,000 to \$500,000 in August and received that funding in December. They also received an additional \$100,000 special grant to support zoo inspection training, provided through a contract with CAZA, and a round of zoo inspections in coordination with the Ministry of Natural Resources.

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In 2008, the budget of \$5.1 million, the OSPCA received a special one-time grant of \$5 million to support infrastructure renewal throughout their system. This funding was distributed to branches and affiliates who make application to an impartial advisory committee made up of groups that are not associated with the OSPCA, such as Trillium and the United Way, in terms of representatives so that they know what kind of grant they're looking at. That was available to all animal rights groups. Of this, \$3 million is earmarked for general infrastructure improvements, \$1.25 million for improvements to service delivery in northern Ontario, and \$750,000 for information technology improvements. The OSPCA will be receiving a \$500,000 annual training grant later this year. The grand total of this is \$5.7 million.

There are two other pieces that I'm not going to discuss because they are part of the deputations and I don't want to influence those one way or the other. I will provide this sheet, through you, Chair, and the clerk, to all members. Thank you very much for the opportunity to present.

The Acting Chair (Mr. David Zimmer): All right. We have a couple of minutes. Ms. DiNovo.

Ms. Cheri DiNovo: I just wanted to ask a question of Mr. Levac. First of all, kudos to the ministry staff; they've done a phenomenal job here, and thank you for that phenomenal job. I understand a lot of that research is from ministry staff.

Some of it, as I asked the deputant from the OSPCA, is at the OSPCA's say-so, though; it's not directly

verifiable. So I appreciate that piece of work, but, for example, the stats around number of charges and convictions come from the OSPCA; they're not verifiable by an outside witness or an outside auditing committee. I guess my question really is, what of that information comes from the OSPCA and what comes from ministry staff and an outside agency?

Mr. Dave Levac: I'll have that deciphered for the member so that all of us can share that.

The only point I would make is that there's a procedures manual that they have to follow, and the inspector would be responsible for doing the review of that particular piece of work. So in essence, the one answer I do have is that this is an accumulation of their protocol that they are supposed to follow when doing record-keeping. I'll follow up on that and provide that information for you.

Quite frankly, the Ministry of the Attorney General, in the charges case, would have all of those records because it's public. If there are any charges, it has to immediately be submitted to the Attorney General. That's the other piece to this in terms of charges. It might become somewhat disconcerting, that you can't follow the ministry that's responsible for that particular group and then all of a sudden be leapfrogged over to the Attorney General. So you bring up a point that we might want to follow up on as a committee and make some recommendations on regarding procedure, as opposed to the bill itself.

Ms. Cheri DiNovo: Thank you.

MARIE BLOSH

The Acting Chair (Mr. David Zimmer): All right, then. We'll move to the 11 o'clock slot, Marie Blosh. Ms. Blosh, you'll have 15 minutes for your presentation. I'll give you a three-minute warning as we approach the limit for your presentation. You may want to leave some time for questions from panel members, but that's your decision. If you would introduce yourself for the record, and you may begin.

Ms. Marie Blosh: My name is Marie Blosh. I'm what you might call a community activist. I'm the president of my neighbourhood association. I'm a member of the Urban League of London, which is an umbrella group for neighbourhood associations and non-profit associations in London. I'm also the chair of London's Animal Welfare Advisory Committee.

I am here today because I care about animals, and I think that what the preamble of Bill 50 says is absolutely true "that how we treat animals in Ontario helps define our humanity, morality and compassion as a society." The government is to be commended for coming forward with Bill 50. That said, however, there are some aspects that I'd like to address.

First—and I'll be quick about this because I know it's been raised by a number of people—section 6, which seeks to restrict the use of the terms "humane society" or "SPCA" in the name of an organization. I think it's unnecessary. Trade name protection should stay within

intellectual property laws, and they shouldn't be added to what's supposed to be animal welfare legislation. Doing so creates a diversion, which we've seen, and it takes the emphasis off the real goal, which is to stop the abuse of animals in Ontario.

Second—and I think this is extremely important—all captive animals need protection. In the case of roadside zoos, this includes both native and exotic species because both are exhibited. The same licensing requirements should apply to both, and there should be some standards that have to be met before a licence is handed out. It shouldn't just simply be an over-the-counter, no-questions-asked kind of process.

Third, I think the spin that's been put on Bill 50 is that it addresses many of the concerns that were raised by members of the public about roadside zoos. Frankly, that's not enough. Where are the licensing requirements and the regulations that were part of MPP Zimmer's private member's bill, Bill 154? These were proactive measures that were designed to protect zoo animals, and they should be a component of Bill 50. Leaving these specifics to be added by regulation is not a satisfactory response to this concern. There's simply no guarantee. Plus, the regulations can be changed without public input or public comment.

Even worse, there are two clauses—11.2(6)(c) and 22(1)(d)—that create a gaping loophole. These clauses allow for broad exemptions. What this means is that Bill 50 can appear to be strong legislation for animal welfare, but its effects can be quietly weakened, or even negated, to serve the industry through the regulations. This is exactly the same kind of process we saw with the pesticide bill. It's simply not acceptable. The exemptions to the bill must not be so broad as to defeat its very purpose. The fact of the matter is, even if this current government intends to include all zoos, a future government could change this very simply through the regulations.

Finally, I want to make a comment on subsection 12(6). That's the section that would be changed to permit OSPCA officers the right to warrantless entry. I know that issue has been raised recently. The provision would not permit warrantless entry into dwellings—I would in no way support that—and it does require reasonable grounds to believe that an animal is in immediate distress, as opposed to the current standard, which requires the officer to observe the immediate distress. The current standard allows for situations like we saw at the Lickety Split zoo, where there were reports of an animal in distress, but because it was not easily visible—there are trees, there are shrubs, it's hidden from view—the officers have to say, "Well, there's really nothing we can do." That's just wrong. This section is not a charter violation, and that should not be used as a way to defend it. Animals simply can't pick up their cellphones and call for help, and when someone does call for them, the officers should be able to respond.

I have distributed my comments to you. Just to sum up, I would delete section 6, require a licence with standards that must be met for both native and exotic

species, specifically include all zoos in the bill—and that's an important one; I would not make an exemption for CAZA zoos—narrowly craft the exemptions to avoid a giant loophole, and, finally, retain the warrantless entry provisions under limited circumstances.

I thank you for the opportunity to come to speak.

The Acting Chair (Mr. Khalil Ramal): Thank you very much for your presentation. We have almost three minutes per side. We'll start with Mr. Levac.

Mr. Dave Levac: Ms. Blosh, thank you for your activism and for your concern for animals. Are you aware that CAZA has been working with the OSPCA in terms of trying to take what the bill is prescribing and work with training processes of what the inspectors are seeing, and that they have also agreed in principle to be the participant or partner in making sure roadside zoos are cared for?

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Ms. Marie Blosh: I am aware of that; however, I've also been told that there has been a request for exemptions for CAZA zoos, and it seemed a little counter-intuitive to participate in setting minimum standards and at the same time ask for an exemption.

Mr. Dave Levac: Okay.

Ms. Marie Blosh: And they are minimum standards, so I would presume that there wouldn't be any issue about meeting them. There would be other reasons to want to be exempted.

Mr. Dave Levac: Right. And that farming and all of the other activities that you mentioned are being exempted under the codes, rules, regulations and laws that are already in existence, but the OSPCA will have a right to deal with any of those issues if those codes and/or laws are broken within those other ministries. So they do have authority to deal with a farm animal if the farm animal has not been given the codes of behaviour under understood standard practices.

Ms. Marie Blosh: Right, and I think that's very important. I myself grew up on a farm and I know it is true that real farmers do care about their animals. On the other hand, there are hobby farmers who maybe don't have the experience, and I think there are issues that are raised with them. I think there has to be a distinction between—I don't want to say "real" farmers, but farmers and hobby farmers.

Mr. Dave Levac: And you're aware that I've been announcing on behalf of the government that there will be an amendment to section 6 to get rid of this name issue?

Ms. Marie Blosh: I'm really pleased to hear that, because I just find it extremely frustrating that when a bill comes out that's a good bill like this—the intentions behind this bill are good, and to hear some of the organizations that exist for animal welfare to be opposed to the bill I think is creating a horrible diversion that just defeats the bill.

Mr. Dave Levac: We'll be removing that concern.

Ms. Marie Blosh: I'm really glad to hear that.

Mr. Dave Levac: Thank you, Mr. Chairman. I appreciate the opportunity. Thank you again for your deputation.

The Acting Chair (Mr. David Zimmer): Mr. Barrett.

Mr. Toby Barrett: I'll defer to my colleague.

The Acting Chair (Mr. David Zimmer): Ms. DiNovo.

Ms. Cheri DiNovo: Thank you for your deputation and for your concern and for your activism. We have been outspoken about that section 6, as you're probably aware, in the NDP.

I have a question for you around the use of the term "zoo." Certainly I'm a supporter of Mr. Zimmer's private member's bill and hope that this bill does protect, and we'll be working to make sure that it does protect, those animals that are in zoos. The concern I heard was actually from somebody who said that it's better to leave the term out because people call—what is a zoo? An educational institution or something else? Hence the term itself could pose a problem for those who want to enforce the rights of animals, let's say, within those circumstances. I was wondering what you think about that.

Ms. Marie Blosh: It's a good point. Certainly you don't want to define "zoo" in a way where it would exclude what essentially is a collection of animals, but I also think you can define it broadly enough that it could include those kinds of areas. It does disturb me to see absolutely no mention in the bill and certainly leaving so much to the regulations, which, like I said, is—I don't want to call it a trick, but it sort of is, because it does lull people into a sense of complacency in saying, "This is covered. We have legislation on that." Yet so much can be pulled back in the regulations and that process is so much more quiet.

Ms. Cheri DiNovo: Certainly that's a concern, not just with this bill but with many bills, that much is left up to regulation and it's not spelled out in the bill itself. So we'll be looking into that as well.

Some of the concerns of the deputants, just to let you know about the actions of the OSPCA, have been on behalf of the animals, that animals have been harmed in the actions of the OSPCA. So that's our concern as well: around the warrantless entry and around the training and the running of the OSPCA. So certainly we'll be on guard on that in the NDP, but I thank you very much for your deputation.

Ms. Marie Blosh: If I could just make one comment: I certainly understand that specifics have to be left to regulations. They have to be, and that's not really my issue. My concern is that if we have broad exemptions that could be created without guidance from the bill, that bothers me a great deal. If the guidance is there from the bill and what could be exempted—if there's something that you're thinking of exempting, then maybe put some guidance in the bill so that the regulations can be guided by that.

As for the second one, it's just not ideal. In an ideal world, we wouldn't rely on a charitable institution that depends on donations and fundraising events to police

animal welfare for our province. In my ideal world, would it be relying on that? No. That would probably be another comment I should make, that I would want to see the funding there for training and for enforcement.

The Acting Chair (Mr. David Zimmer): On that note, I want to thank you for taking the time to present to this committee.

Ms. Marie Blosh: Okay. Thank you.

The Acting Chair (Mr. David Zimmer): Thank you for coming in today.

BESSIE BORWEIN

The Acting Chair (Mr. David Zimmer): Heidi Steeves? London Animal Alliance, Florine Morrison? Bessie Borwein? Thank you very much.

Ms. Borwein, you'll have 15 minutes to present. I'll give you a three-minute warning as you approach the end of your time. You may wish to leave time for questions from committee members, but that's your decision. If you would identify yourself for the record.

Dr. Bessie Borwein: Firstly, I want to thank you very much for this opportunity.

The Acting Chair (Mr. David Zimmer): Sorry, could you just identify yourself for the Hansard record?

Dr. Bessie Borwein: I am Dr. Bessie Borwein. My background is in zoology and anatomy. I've been a professor. I've been an associate dean, research. I now work as a special adviser to the VP, research, at the University of Western Ontario.

The Acting Chair (Mr. David Zimmer): Thank you.

Dr. Bessie Borwein: I come before you both as a scientist and a private citizen. I have been involved many times with public policy both at the federal and the Ontario Parliaments. I value this opportunity to describe the context in which researchers work these days and why we have this need for watchfulness and the climate of fear that has been generated in the research community by the extremists in the animal rights movement.

The intentions of this bill are very honourable. Every civilized society wants animals in their care well cared for. I've been impressed with the complexity of the situation. When you have a charitable organization, a non-governmental organization, that nevertheless is funded by a government, there are strange complexities there. I guess it's just grown up that way, like Topsy.

There are, even today, listening to people here, sometimes interchangeable uses of the words "animal welfare" and "animal rights." They are not the same and they should be clearly demarcated. The animal rights world wants to promote a fantasized world in which animals will be liberated, to use their words, and not be used in any way for human purposes. Just as an aside, cats eat millions of birds and mice every year, but people, they say, must be vegans.

There is this huge difference. Animal welfare is widely supported in our society. I don't know of those who I regard as regular, mainstream people who don't want to see animals well cared for. My own family have

had animals from SPCAs. The family as a whole owns four dogs, four rabbits, several cats. But what has happened is the confusion of the boundary between animal welfare—caring for and caring about animals—and animal rights.

What I have learned in my work is that there are blurred areas becoming more prevalent. These bodies can be vulnerable to the ebb and flow of animal rights ideologies and infiltrations, and we have even seen successful takeovers. You only have to recall what happened in the 1980s to the Toronto Humane Society, taken over in a well-planned putsch by a small group masterminded out of the USA—nowadays, the very wealthy Humane Society of the United States. But it has now become an out-and-out animal rights body, cooperating with People for the Ethical Treatment of Animals, one of the most extreme bodies. It doesn't run a single shelter. All its work is political and ideological propaganda, and in my domain, we take note that the president has said that they will work to phase out medical research. And I've heard it here too, the attacks from animal rights extremists, not from the animal welfare domain, on medical research and the quite egregious comments made here.

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The extent and the nature of the seriousness of the threats to researchers are not generally known because they're not the stuff of daily headlines, since we work to increase understanding and knowledge, to alleviate and cure the hundreds of diseases that afflict people and animals and to repair wear-and-tear and trauma—impressive advantages. Canada's a major research country, a leader in endocrinology and medical imaging. It's interesting that we and our pets are living longer than ever before. Our children are living the safest childhoods from disease ever known. The provision of good medical care is a requirement of those who care for animals; it's written into the very act. But this knowledge of medical care—and veterinary medicine is just a branch of medicine, which is just a branch of biology—comes from scientific research. The knowledge of how to care medically for people and animals does not come out of humane societies or SPCAs; it comes out of research.

So it's very troubling that such worthy endeavours have been—and now I'll repeat why we worry so much—seriously disrupted, and sometimes halted, by attacks on researchers, their coworkers and their employees. Since 1990, well over 1,000 scientists in the UK, Canada and the USA have been personally harassed, threatened at their workplaces and at their homes, their children frightened—for example, “We know where your children go to school.” Razor-bladed letters have been sent, explosive devices have been placed under cars and at front doors, tires have been slashed and homes have been flooded by hoses put through broken windows. One home in Montreal has been so-called “visited” 20 times—noisily. In addition, they have developed a technique of tertiary targeting of businesses that support and supply research facilities. The harassment has

extended to the families of employees and their families. This is just a short list, but it is the context for why we are so concerned.

There are organizations that will come before you or have come before you—we had very short notice about this meeting, but I'm glad that we got to hear about it. I think there's short time and I hope that the hearings will be extended. CSIS has warned about single-issue terrorism, and that includes the Animal Liberation Front for which PETA often speaks in public, the Animal Alliance of Canada, which has added “Environment Voters” to its name, and the London Animal Alliance, which has had associations with PETA. These are things that concern us and increase our need for security.

As part of the context, the animal rights people know that their ultimate aim for society—that there will be no use of animals for human purposes—is too extreme for the public to swallow in one gulp. So they have devised what they call step-by-step tactics and interim agendas—cascades of small victories towards their final victory.

Toronto lawyer Clayton Ruby, whose office has often served as counsel for animal rights groups, has actually said that he predicts that over the next 10 years, the changes will be subtle, masquerading as animal protection and continuing to develop as a moralistic adjunct to human rights. We know that in response to several federal bills recently, the Animal Alliance of Canada has publicly stated that they intend to use SPCA and humane society inspectors—they call them peace officers—sympathetic to their cause and on their behalf. This is part of our anxieties. Lisa Kramer, president of the Vancouver Humane Society in 2000, disapproves of using animals for human gain, and that of course includes medical research.

My point here is that most SPCAs do invaluable work. We need them. They help us to look after and guard animals who come into our care. But they are not homogeneous, they're not all the same, and in the current context of the ideological battles between animal rights and animal welfare, they are increasingly sometimes blurring. That's why I would urge you never to confuse animal rights with animal welfare.

In this context, I know that the Ontario Animals for Research Act covers research in medicine, but we would like a specific item emphasizing the exclusion from this act of animals in registered and licensed research facilities and those in facilities that breed the animals we need for research.

Because there is this variation, this ebb and flow, and while most SPCAs do what we call mainline work, they are not vaccinated against radical takeovers. Therein lies a component of our anxieties. The OSPCA is a private charity. It combines advocacy work and fundraising and gets a considerable amount of government money, so there's a complexity there. But now, according to this bill, it will be given increased police-like enforcement powers and can impose fines that it can keep.

The Acting Chair (Mr. David Zimmer): You have three minutes.

Dr. Bessie Borwein: Okay.

This could be a conflict of interest.

I guess my complaint is that we have three police forces in Ontario, and they have to have special training in police colleges. I think we have to be cautious of what powers are given to a non-police force to enter and search without warrant, and very specifically, of course, as part of their work on anonymous information. For many years, I chaired the human ethics review board for all research involving human beings in London, and I can tell you that one of the problems with whistle-blowers was we were assured by the dean of law that you cannot protect or promise to protect a whistle-blower, because in Canada one always has the right in law to know who your accuser is. These are some of the complexities that arise in this complex world.

We're interested to know about the training, choosing the qualifications of the inspectors, how they'll be remunerated, what the overseeing bodies are.

The Alberta SPCA act addresses the issue of nuisance and frivolous complaints. This is important when there is an ill-defined boundary between animal welfare and animal rights.

My general comment is that laws are not easy to change, so great care must be exercised in the promulgation of new laws. I would end by saying that there has been a short time for addressing this—I've only known about it for about a week—and that Bill 50 needs much more scrutiny and some improvement. Thank you.

The Acting Chair (Mr. David Zimmer): We have about a minute per caucus, beginning with Mr. Barrett for the Conservatives.

Mr. Toby Barrett: Just very briefly: In the province of Ontario, and elsewhere as well, you outline the use of fear and intimidation against the research community or people specifically doing lab research with animals. I spent 20 years with the Addiction Research Foundation. We were adjacent to the Clarke Institute—

Dr. Bessie Borwein: Sorry. I didn't hear that.

Mr. Toby Barrett: I spent 20 years with the Addiction Research Foundation. We were adjacent to the Clarke Institute, and a number of years ago there were instances, certainly at the Clarke, with their animal research. Have these tactics inhibited researchers in Ontario? Has it changed the direction of research at all or the use of various animals? Are these kinds of tactics actually working in the province of Ontario?

Dr. Bessie Borwein: I would say that I don't think it's changed the areas of research. It has certainly interrupted work. It has impeded work in the sense that people targeted really have to attend to being targeted. It's very significant to be so harassed personally by the animal rights people, so it certainly does interfere there.

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But there's also a climate of being scared. There was a time when our researchers didn't even want the newspapers to mention that they worked on rats and mice. I would say that you must say it, because we can't pretend that we don't do it. We have to say what it is. But there

was that fear. I guess it's gradually being ameliorated somewhat. But, yes, I think there is a tendency to want to be private, not to be known, and it has made a difference to a number of researchers. As somebody who has been targeted several times, I can assure you that it interferes with one's research.

The Acting Chair (Mr. David Zimmer): And on that note, we'll move to the NDP.

Ms. Cheri DiNovo: Thank you for your deputation, Doctor. Thank you for the definitional clarity around rights and welfare, because you're absolutely right: We have been using those terms probably improperly.

I have a question that comes from one of the deputants. One of the deputants raised the issue that research on animals is no longer necessary, that all this research can be done by other means now. I was wondering if you could just address that.

Dr. Bessie Borwein: I think those are slogans used by the animal rights movement. Animals in research are not a big part of research; research is carried on in multitudinous ways. Even if an animal is used—for example, its tissue, from one animal or several, could be studied for months. But the picture of people sitting there and slicing up animals—the word “vivisector”—is bizarre. There are many, many ways in which research is conducted, all of them invented by scientists, and not all involving animals. Increasingly now, with the advent of medical imaging and so on, we see in some respects a diminution in the use of animals, and in other respects more. In all the genetic research that's going on, you need the animals. We cannot make a single cell in a laboratory. It's impossible to deal with the complexities of organ systems and digestive systems, for example, other than in a whole, living animal. The way the biological world works, we share a lot of DNA with creatures big and small and many of our biochemical processes are embedded in their DNA and can be very similar. But there is no shortcut to knowledge. You really have to just know.

The Acting Chair (Mr. David Zimmer): And on that note, we'll move to the Liberal side.

Mr. Dave Levac: Doctor, thank you for your body of work. Obviously, looking at your group, it's a very impressive body of work, and I appreciate what you've done for us over the years.

I want to bring two points to your attention; if you would comment on them, please, I'd appreciate it. Are you aware that in Bill 50 exemptions are in existence for farm animals, wildlife and research animals, in that any law and/or codes of standards or ethics that are applied in those three areas apply and do not get affected by the OSPCA, but if the OSPCA believes that those standards and those behaviours are breached and go above that, then the OSPCA enters?

My second, quick point is that the fines you're talking about go back to municipal court, not to the OSPCA.

Dr. Bessie Borwein: I am aware of the exemptions, but I think that in the present climate of uncertainty, and the uncertainties of which SPCA is mainline and which is

not—or changing; there's a very fluid world there—we would very much appreciate a repetition as a reassurance that this does not impede the Animals for Research Act.

The Acting Chair (Mr. David Zimmer): Thank you very much, Dr. Borwein, for taking the time to attend and present to this committee.

Dr. Bessie Borwein: Thank you for your time.

LONDON ANIMAL ALLIANCE

The Acting Chair (Mr. David Zimmer): We'll move to the London Animal Alliance, Florine Morrison. Ms. Morrison, you'll have 15 minutes to present. I'll give you a three-minute warning as you approach the end of your time. You may wish to leave time for questions from this committee, but that choice is yours. If you will identify yourself for the record.

Ms. Florine Morrison: Thank you very much. My name is Florine Morrison, and I guess I am one of the radicals that Bessie referred to. I care for one of the most helpless segments of our society, and if that's considered being a terrorist and a radical, that's what I am. It is the welfare of animals that we are discussing here today with this bill.

I have been an active advocate for the protection and welfare of animals in London for 25 years. I am co-founder of Animal Outreach, a registered charitable organization dedicated to the rescue of abused and abandoned farm animals and cat rescue. I am on the boards of Zoocheck Canada and the London Humane Society. But it as a member of the London Animal Alliance, an organization that has worked tirelessly to improve the way we treat animals in our society, that I speak to you today.

We believe that the intention of this bill is to protect all animals; however, we share some of the concerns being voiced by many other animal protection organizations regarding the absence of zoo regulations and the sweeping exemptions that limit the effectiveness of this bill. I am glad to hear that the problematic wording proposed in section 6 has been resolved.

The London Animal Alliance supports the significant changes laid out in Bill 50, changes that will provide the OSPCA with much-needed authority to do their job—protect animals. Bill 50 will establish the strongest penalties in the country; make it a provincial offence to cause or permit distress to any animal; allow the OSPCA to inspect facilities that keep captive animals; and establish animal care standards that apply to all animals.

However, without specific regulations and standards for captive wildlife, the problems with roadside zoos will not be addressed by Bill 50. We recommend regulations be added to proactively protect animals in captive situations and prevent animal suffering:

- that facilities be required to obtain a licence to keep wild animals in captivity;

- that facilities comply with animal welfare and public safety standards;

- that zoo regulations and standards of care incorporate the five freedoms: freedom from hunger and thirst; freedom from discomfort; freedom from pain, injury and disease; freedom to express normal behaviour; and freedom from fear and distress.

I have seen circus animals roll into London after 12 to 14 hours on the road in hot transport trucks filled knee deep with waste. I have seen filthy, fly-infested cages with lions and tigers pacing, their only relief being the brief time they are forced to perform. These animals deserve better.

I've been to roadside zoos where the animals are confined to small, inadequate cages with little or no stimulation. Social animals are kept in solitary confinement. Their only escape sometimes from the blazing sun is a small, suffocating box and a scummy bowl of water.

London was recently embarrassed internationally by the shoddy condition of animals kept at Lickety Split, a local roadside zoo. These animals had been confined in totally inappropriate enclosures for years. Only recently was the MNR in a position to lay charges in connection with the native species and take the owners to court. Although the owners of Lickety Split were found guilty, it is still unclear as to where the animals are and when the MNR will actually be able to remove them. Native species account for only one third of the captive animals in Ontario. Non-native species are without regulations or legislation to protect them.

The Kerwood Wolf Education Centre is another local horror story that emphasizes the need for increased authority for the OSPCA to carry out inspections and the need to establish comprehensive standards of care, with specific regulations for all animals in captivity.

We ask that no zoo, circus or any type of animal exhibit be given exemption from these future regulations. We have heard that CAZA, a group that has participated in the process of developing Bill 50, wants CAZA zoos to be exempt from these laws and whatever regulations may be produced under this bill—the very regulations that its members already have or will have a role in developing. This request seems self-serving. We strongly ask that you not to excuse CAZA zoos from these hoped-for regulations. If CAZA members believe that zoos that hold their accreditation meet such high standards that they do not require further regulation, then surely there will not be any problem with these zoos submitting to oversight and inspections. If CAZA zoos are of such high quality, then surely they will pass these inspections with ease.

In our opinion, CAZA is essentially a union for zoos. This is not a bad thing, as all groups have the right to form societies that promote their own needs and protect their business interests. But it is important to recognize that this is the main purpose of such a group.

As we review the animal husbandry practices and quality of housing at some CAZA-accredited zoos, it seems obvious that these zoos can be just as problematic as many non-CAZA-member facilities. CAZA accreditation should not be used as a benchmark and it should

not, under any circumstances, exempt CAZA zoos from our anti-cruelty laws.

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Some CAZA zoos have had well-founded charges laid against them by humane officers. For instance, the Greater Vancouver Zoo was charged with grossly inadequate housing for a young hippo. There have been premature and unexplained deaths of elephants and gorillas, and, most recently, stingray deaths at the Calgary Zoo. Marineland still does not have the perimeter fencing required for CAZA, but they are accredited. Marineland, a CAZA-accredited zoo, trains profoundly complex and socially developed animals, such as whales, to perform foolish tricks for the frivolous purpose of entertainment and, of course, profit. Marineland confines whales that would naturally live in well-developed social groups and would travel through territories of several miles each day in tanks that are pathetically small. I have seen pictures of the off-exhibit area where seals are kept, and it is more of a barn with tanks, a kind of warehouse for seals—hardly a reasonable habitat.

Yesterday, a presenter spoke favourably about African Lion Safari, another CAZA zoo. African Lion Safari was recently fined \$2 million after they were found to be strictly liable for injuries. CAZA has not made any changes there. After this committee ended, I made a presentation regarding the suffering inherent in the training and performing of elephants. Some of the video footage I showed was taken at African Lion Safari's elephant barn. It is very disturbing and in no way presents a happy, well-cared-for elephant.

CAZA representatives do know how to display captive animals for the purpose of profit, but this does not make them experts on animal welfare and assessing distress in animals. The idea that CAZA should be in charge of inspecting roadside zoos, rather than OSPCA officers, is truly disturbing. I hope this idea will not receive consideration, and if anyone here is entertaining this idea, I respectfully ask that you do online research for news reports and reports of the many problems that have occurred at CAZA-accredited zoos.

There are many problems to be ironed out with the training and oversight of OSPCA officers, but to put CAZA in charge of roadside zoo inspections is a step so far backward that I'm sure most animal welfare groups will react to it with real distress. We respect the right of CAZA to exist and to protect their business; we do, however, take exception to what we maintain is a misrepresentation that CAZA exists as a group that in any way advocates on behalf of captive animals and should therefore be exempt from the new regulations. Many exemplary community leaders, such as MPPs, police officers and even Prime Ministers, are subject to oversight from outside groups, so there seems to be no good reason to allow this exemption request, and we respectfully request that you do not provide this exemption or give responsibility for zoo oversight to CAZA.

Moving on, section 11.2 states, "No person shall cause an animal to be in distress," yet subsection (6) appears to

exempt certain animals and activities from this prohibition. There are exemptions for "native wildlife and fish in the wild...; activities carried out in accordance with reasonable and generally accepted practices...; or a prescribed class of animals or animals living in prescribed circumstances," and for "exempting any person or class of persons from any provision of this act...." These leave many animals without the protection of the Ontario SPCA. Native wildlife and fish in the wild are offered very little protection under the Fish and Wildlife Conservation Act.

If farmers, researchers and hunters are exempt from the OSPCA Act, farmed animals, lab animals and wild animals have no protection from any cruelty that goes beyond what is considered legitimate common practice.

An exemption for research animals, as set out in the Animals for Research Act, is not rectified by Bill 50. Animal researchers are currently licensed under the Animals for Research Act, which exempts them from the OSPCA Act. A number of captive animal facilities, such as the Toronto Zoo and African Lion Safari, have research licences. As it reads now, these captive animals will be outside the protection of the OSPCA. Inspectors must have access to these places if they are going to do their job, so this is not acceptable.

Although Bill 50 will allow business as usual—researchers are exempt now and Bill 50 will not change that—this law to address animal cruelty gives those who abuse animals even more protection than they receive under their own legislation. The hundreds of thousands of animals used in research in Ontario receive no protection from this anti-cruelty legislation. Behind closed doors, the lives of these animals are solely in the hands of the researchers. Confidentiality and private property issues make it possible for even the most horrific cases of cruelty to go undetected and unprosecuted.

All other occupations and pursuits require us to work within the law and be subject to investigation. Take this opportunity to amend the Animals For Research Act so that the OSPCA can investigate animal cruelty complaints. If the Animals for Research Act continues to prohibit the OSPCA from investigating complaints, then we must clarify the responsibility of a vet reporting an animal cruelty incident in a supply or research facility.

Discussion I heard yesterday implies that it was not the intention to omit animals in these circumstances from the protection of the OSPCA. That is not the way this bill reads to me. If there is to be protection for wild animals, farm animals and lab animals that are made to suffer beyond what is considered legitimate—

The Acting Chair (Mr. David Zimmer): You've got three minutes.

Ms. Florine Morrison: —and accepted practice, that must be clarified.

We do not oppose exemptions for lawful activities, provided they are carried out in accordance with the applicable legislation, regulations or codes of conduct, and that the law still allows for the prosecution of individuals who exceed the bounds of reasonable and commonly ac-

cepted behaviour. Most activities and industries conduct themselves in accordance with applicable legislation, but there are bullies in every walk of life.

Those who do not abuse their authority and who carry out activities in accordance with reasonable and generally accepted practices, those who work within the law and within the legislation that governs them, should have nothing to fear from this bill or these recommendations. Only those with a total disregard for the suffering of other sentient beings and who choose to exceed these parameters should have cause for concern that this very reasonable animal protection bill might apply to them.

We endorse all the positive changes that Bill 50 offers but urge you to consider the many recommendations made that will ensure that this bill will provide all animals in Ontario with protection from pain and suffering regardless of their circumstances.

The Acting Chair (Mr. David Zimmer): About a minute per caucus, beginning with the NDP.

Ms. Cheri DiNovo: Thank you for deputing here today. I just wanted to make something clear regarding CAZA and the OSPCA and investigations. Certainly, from our point of view, we think that there should be oversight at the OSPCA. We think there should be better training of OSPCA officers, and part of that is that we think that somebody who knows about exotic animals should go out with someone who's only received four weeks' training. It's very difficult for them to assess abuse, to assess anything with that, and certainly they can't be expected to know all circumstances and all animals. So it wasn't to give CAZA the right to investigate their own, but that the OSPCA officer should have somebody there who knows something about exotics.

Ms. Florine Morrison: I'm glad to hear that. Thank you.

The Acting Chair (Mr. David Zimmer): The Liberals, Mr. Rinaldi.

Mr. Lou Rinaldi: Thank you very much, Ms. Morrison, for your presentation today. I just have a comment, and I'll take this opportunity to make it. In the last three days that we've been hearing deputations from folks, obviously there have been extremes on both sides. I hope that as the committee deliberates after the next couple of days—and we certainly do get a lot of mail as well, not just seeing people face to face. We certainly have a challenge. But one of the things to remember is that this particular piece of legislation wasn't touched since way before I was born. That's a long time ago, and the fact that we are revisiting it—how perfect can we make it? I feel confident that the government side and the opposition side will work diligently to try to do the best we can. But the important thing is that it has surfaced and we're trying to deal with it. I just wanted to make that comment.

Thank you once again for being here.

Ms. Florine Morrison: I appreciate all the positive changes. It's definitely a step in the right direction.

Mr. Lou Rinaldi: Thank you very much for being here, and to all the other deputants.

The Acting Chair (Mr. David Zimmer): To the Conservatives, Mr. Barrett.

Mr. Toby Barrett: You have presented your points well. There have been so many presentations out of London and so much interest. Two days of hearings is kind of unique in one location.

We know that, for example, municipal bylaws will be allowed to supersede this legislation. I'm just thinking of the London environment, in which you have a lot of experience. This hotel complex: I don't know whether they allow dogs or cats in rooms here—

Ms. Florine Morrison: To what?

Mr. Toby Barrett: This hotel complex. I don't know whether or not this hotel allows animals. I think of the condos and the high-rises in this city. I think of dogs in cars and trucks. Do you have any views on that? Does this legislation cover off any of these issues?

Ms. Florine Morrison: Do you mean dogs left in hot cars and trucks?

Mr. Toby Barrett: Yes. Or maybe I'm thinking more of buildings. Many apartment buildings do allow dogs and cats in the buildings. What's your position on that? It's not a natural environment for many of these animals.

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Ms. Florine Morrison: It's not a natural environment, but these are domesticated animals. They're animals that have to come to be dependent on us. I think that animals like dogs and cats can live quite happily in an apartment or in a house. It's not an issue; I have cats as companion animals. I love them dearly and they're members of the family. I think as long as they're treated well and they can display some degree of natural behaviour, which I believe they can do, then it's not a problem.

The Acting Chair (Mr. David Zimmer): On that note, thank you very much for your presentation and taking the time to come before this committee.

Ms. Florine Morrison: Thank you.

FRIENDS OF CAPTIVE ANIMALS

The Acting Chair (Mr. David Zimmer): Friends of Captive Animals, Vicki Van Linden

Ms. Vicki Van Linden: I have a slideshow and I was told I'd be given a bit of time to set it up.

The Acting Chair (Mr. David Zimmer): Just one second.

Mr. Dave Levac: Let her set it up while I do my point of order; it won't take long.

The Acting Chair (Mr. David Zimmer): Yes. All right, Mr. Levac.

Ms. Vicki Van Linden: Can someone assist me?

The Acting Chair (Mr. David Zimmer): The technician will work with you while we deal with Mr. Levac's point of order.

Mr. Dave Levac: Unfortunately, I misstated a position of the exemption, and I want to clarify it for the record, and it's my record, so I'd like to clarify it.

I indicated that farm animals and wildlife research animals are exempt. That's still the case, except in

research animals. Bill 50, the present bill, does not apply inside of it. It's a rarity, but the bill that takes care of research animals, which is with the Ministry of Agriculture, called Animals for Research Act, actually has a clause that does not allow Bill 50, the present bill, to go inside it. Even if there are regulations that are being breached by that, it's dealt with by the Ministry of Agriculture. I misspoke, and I apologize to the committee. I wanted to bring that clarity.

The second point of order is, I believe that the clerk and you have received an e-mail for Friday requesting that the Ontario College of Veterinarians wants to do a deputation, and I would like permission of the committee for that to take place.

The Acting Chair (Mr. David Zimmer): We haven't received that request yet, but when we do, we'll deal with your point of order.

Mr. Dave Levac: Okay. If the request does come, I'm seeking support. If we can give that permission today, I think that's okay if it does come.

The Acting Chair (Mr. David Zimmer): All right. If the request comes in, we'll have it. Any debate on whether we should adjust the schedule? Anybody? Agreed? Agreed.

Mr. Dave Levac: The Ontario College of Veterinarians.

The Acting Chair (Mr. David Zimmer): All right. In the event the request comes in from that body, we'll accommodate them.

Mr. Dave Levac: Thank you, and thank you to the opposition. I appreciate it.

The Acting Chair (Mr. David Zimmer): We'll recess for five minutes.

The Acting Chair (Mr. David Zimmer): Ms. Van Linden, you'll have 15 minutes for your presentation. I'll give you a three-minute heads-up when your time is about to expire. You may wish to leave time for questions from the members, but that is your decision. If you would introduce yourself for the Hansard record.

Ms. Vicki Van Linden: Thank you. My name is Vicki Van Linden and I'm representing a local London group called Friends of Captive Animals. I want to thank you all for this opportunity to speak with you today and thank you for being part of this historic venture.

Just before I begin my preamble, I want to respond to some comments I have heard here over the last couple of days and just clarify that the MNR's mandate does not include the welfare of any animals. Their mandate is native wildlife management, not welfare, and that's easily verified with the MNR.

I also want to urge that you not assume that CAZA is a group that is expert in animal welfare. To suggest that CAZA members—which include the elephant handlers at African Lion Safari, who, in my opinion, are actually animal abusers—should participate in zoo inspections is like suggesting that the Ku Klux Klan participate in a government-sponsored race relations board because the KKK is very interested in the relationships between people of different racial backgrounds. I'm aware those

words are very harsh, but I think if you review footage that is readily available about those animal-handling practices, you would see why I feel so strongly.

1150

We thank all members of this provincial Parliament who are supporting this progressive legislation, and we recognize that members of all parties have offered support for this cause and that a concern for the suffering of animals crosses all party lines. We represent a group called Friends of Captive Animals, and our area of concern is the welfare of all wild animals held captive for the purpose of entertainment, such as in zoos, circuses, private collections and other forms of animal exhibits. We come today to ask you to include strong, proactive standards and protection for all captive wild animals in Ontario.

Our group formed in response to the plight of Tyson the kangaroo, housed at Lickety Split Ranch and Zoo here in London. Others have spoken about that, so I'll jump forward.

In 2007, the Ministry of Natural Resources laid the charge of keeping native wildlife without a licence against Shirley McElroy, owner of this zoo, when she failed to renew her \$100 licence. MNR officers actually went to her home to invite her to renew, and she still refused. We want to share a letter that was sent by members of the McElroy family to an MNR officer in 2007. This letter is part of the public record and was read at the trial regarding this licence violation on February 19, 2008. This is a reprint of the letter as was printed in the trial transcript:

"We, Shirley-Ruth of the House of McElroy, Lisa-Anne of the House of McElroy and Terry-Dean of the House of McElroy, being natural, living, breathing, flesh and blood creations of the supreme and true God as written in the 1611 King James Bible cannot make any contracts or covenants with any foreign and alien gods.

"Our faith and belief is that the province of Ontario is such a foreign and alien god. Making a contract or covenant with the province of Ontario would bring disapproval and eternal damnation to us according to our god's supreme law as written in the 1611 King James Bible. We are commanded by God's law to follow and obey his will not man's."

This is the key section: "Therefore we will be unable to contract or pledge almighty God's creations, the animals we care for and have dominion over according to his law, to the province of Ontario [or] the Ministry of Natural Resources foreign and alien gods."

Please understand that we make no comment on the religious beliefs expressed here and respect the right of the McElroy family to hold any religious beliefs that they choose. However, we are concerned about the stated intention to deny the authority of the province of Ontario to regulate their handling of animals through the licensing process.

We are also concerned about what appears to be a very selective use of this belief that the government of Ontario constitutes the power of a "foreign and alien God." The

McElroy family did purchase these licences from the MNR for many years, so this view seems to have become important to them only after the publicity that they received over their treatment of Tyson the kangaroo. We find it disturbing that this family was able to openly inform a government agency that they had no intention of complying with the legal requirement to renew their licence and were able to state in writing their intention to defy this provincial law, yet they have been able to continue to possess these native animals.

We are telling you this story to make clear to you the kinds of situations that occur in the roadside zoo community in Ontario. This is a Wild West kind of backwoods industry, where anyone with some wood and fencing material can go to a public auction, buy animals of all kinds, including big cats and primates, and set up a ramshackle business and become a zookeeper.

This is why we urge you to include strong, proactive standards for the housing of all captive wild animals in Ontario, whether native or exotic. We ask that you make it mandatory that anyone wishing to start such a business or private animal collection must apply for a licence that includes verifying the quality of the housing and care that will be provided to the animals.

Captive wild animals that are owned in private collections need protection just as much as ones that are owned as part of businesses. Before there is a hue and cry about denial of civil liberties, let us consider that there is no intrinsic human need to keep a tiger in your backyard or confine a monkey in your basement. We are pretty sure that the Charter of Rights and Freedoms does not enshrine these activities as a basic human right. We ask that this licence process be applied to zoos and private collectors already existing today, and that the OSPCA have the right of random, routine inspection of these premises. In other industries, we see that countless small businesses are forced to respond to changes in health and safety regulations, for instance. Other types of small businesses in Ontario are able to rise to this challenge, so there's no reason for this industry to be treated differently.

We include in our handout a brief overview of the Alberta model of zoo regulations. We want to make special note of the need to require licensing. We also have included suggestions on how a system of fines for violations, and licences, as well as a tax on breeding, can offset the cost of enforcing the new regulations.

Also, note the importance of housing animals in appropriate social groupings. To explain the importance of this issue of social groupings, we want to tell the story of a Japanese macaque monkey named Yoshi that we recently met at a small, private sanctuary here in Ontario. Yoshi arrived at this sanctuary in a dog kennel along with a female monkey named Keiko. The sanctuary keeper does not know anything about the history of these two monkeys. They were very frightened of men in particular, especially Yoshi. They both had long tattoos and scarring on their arms. They also had large bald areas from the elbow to the wrist.

These two monkeys exhibited emotional problems and signs of trauma, and Yoshi remains very frightened of strangers. Yoshi and Keiko lived together at the sanctuary for six years. They lived as mates in every way; they groomed each other, interacted closely and had sexual relations. They often found a measure of peace at this small sanctuary. Then, Keiko, the female, died.

On the day that Keiko died, Yoshi laid on his back, staring upwards, for a whole day. He guarded her body for four days, refusing to allow anyone near her body or to take her away. He brushed the flies off her as he stayed close to his dead mate and life partner. Finally, after four days, he was willing to allow her body to be taken away.

There are people who will tell you that Yoshi does not have feelings similar to the kind of grief that we feel when we lose a loved one. There are people who will tell you that Yoshi and others like him should be treated as mere property, just as a chair or a car are property to be owned and treated in any way that the owner wishes. But how can you ignore the intense emotional suffering that Yoshi experienced at the death of his partner? Do you really believe that this is less than genuine grieving at the loss of a loved one? What does this tell us about the emotional natures of these animals and their ability to suffer emotionally in ways very similar to ourselves?

In the slave-owning era of America, people used to believe that African-American slaves did not feel the same kinds of bonds of family love as white people. It was said that these owned people did not feel physical pain in the same way as white people. We understand today how utterly wrong this belief was and recognize it as merely a convenient denial. This denial allowed slave owners to continue to cause great suffering and still sleep at night. By engaging in this ridiculous belief, they were able to convince themselves that they were good, moral people and that enslaving other humans was a moral and right thing to do.

How could otherwise intelligent people believe that enslaving other people was morally right? The answer is denial. We seem to have the great ability to blind ourselves to what we do not want to see, to turn a blind eye to the great suffering that we cause and to justify this great suffering as being part of a greater good.

The same kinds of arguments were given during the industrial era of Victorian England. Young children of poor families worked in factories for long hours in dangerous and unhealthy conditions. When social reformers worked to end the use of child labour, captains of industry protested that the economy would fail. England needed these child labourers, they said, for the sake of the greater good. In fact, terrible consequences would occur—the sky would fall. As we know, the sky did not fall. England and other industrialized nations of that era progressed and moved forward. We believe that if we start to treat animals like the feeling creatures that they are and if we shake off the blinders of denial, we too will move forward, and the sky will not fall. Our society will become better in so many ways that we cannot calculate now.

What side of history should we be on? Do we want to be associated with the factory owners who fought to keep children of the poor in factories? Do we want to be associated with slave-owning societies that fought to protect slave-dependent industries? Or do we want to be seen as progressive, modern people? It is up to us to make this choice, and we ask that you help us to make a brave and enlightened one. Please include meaningful standards of care for all captive wild animals, both native and exotic, across Ontario.

1200

I have a few pictures. This is a sulphur-crested cockatoo that was housed at Lickety Split. I know the quality is poor, but you can see the demeanour and the carriage of the bird. The bird does not look well. That's a close-up of the demeanour and carriage of the bird.

Here is what a healthy cockatoo looks like. I think you can see there's a big difference.

This is where a Barbary ape, a very social primate, was housed all alone.

This appears to be a vervet monkey, again housed alone at Lickety Split.

This is not a good-quality picture. If you can see, that's not a very happy face there, the same monkey.

This is a monkey house at Greenview Aviaries. This shed—because that's what it is, a shed—houses two, four, six, seven little monkeys in what kind of looks like a shed-like environment.

This is a young baboon that at this age should not even be away from its mother. It lives in what you can see is like a shed. It's all alone.

The Acting Chair (Mr. David Zimmer): All right, thank you. I've got to keep everybody on the same schedule in fairness to all the parties.

Ms. Vicki Van Linden: Sure, got you.

The Acting Chair (Mr. David Zimmer): Thank you very, very much for organizing your presentation and presenting it to us today.

The Guelph Humane Society?

LINDA TAYLOR

The Acting Chair (Mr. David Zimmer): Linda Taylor? If you would come forward, Ms. Taylor. You'll have 15 minutes to present to the committee, and I'll give you a three-minute heads-up as you're approaching the end of your time. You may want to leave some time for questions from the members of the committee, but you decide what you'd like to do there. If you would give us your name for the record, and then we can start.

Ms. Linda Taylor: My name is Linda Taylor and I live in Ontario. I'd like to speak to you about the Ontario SPCA.

I don't know that much about Bill 50, but I've had my experiences with the OSPCA. I know that they are a charity, and I know the province has given the OSPCA \$5 million, and people donate millions to the OSPCA.

I think the public should know more. How much does the OSPCA make selling and adopting animals? The

public should know their salaries and how much they spend on lawyers and court cases. Churches have to show how much they spend and what they collect; so should the OSPCA with their yearly budget of \$13 million. The OSPCA needs to be subject to freedom of information. They use publicity to get donations.

Justice Zuraw describes the OSPCA as "a private police force empowered in cases involving animals to lay charges and seize property, using these charges or seizures to campaign for funds for their private coffers," in the *OSPCA v. Cindy Pauliuk* ruling. Crystal Mackay, the executive director of the Ontario Farm Animal Council, OFAC, said in 2006 in *Better Farming* magazine that the OSPCA "need[s] publicity to raise funds."

Inspectors do not have enough training or supervision. Who hires, trains and supervises these inspectors? Some of them are volunteer agents, and they have the powers of a police officer. The OSPCA inspector who handled my case would have had two weeks' training, a high school education and a driver's licence. That's all you need to get the job. The chief inspector is hours away in Newmarket. Who supervises their daily actions?

They do not follow animal health and safety procedures. When the OSPCA arrives, you ask them to disinfect their hands or step into a bleach bath or put on boot covers or overalls. They're always refusing, saying, "You're the first place I've visited today." When I pushed them to disinfect their hands before they touched my puppies, they told me that they didn't have to and touched the puppies anyway.

Inspectors communicate using threats and intimidation: "I will take away your animals," or "I'll criminally charge you." That is how the OSPCA inspectors communicate. There are always fears and threats with them.

They refuse to speak to your vet. If your vet says your animals are healthy, the OSPCA will find a vet who will find something wrong with your animal. Vets are frightened to speak out against the OSPCA; they are afraid they will lose their practice. The minute the OSPCA is involved, most vets drop you as their client.

They have the powers of a police officer and are not accountable to anyone. The OSPCA should not be private; they should be a government organization. That way, there would be accountability.

These problems have been around for almost 20 years. Not all inspectors are like this, but the ones who are need to be stopped.

In 1989, the Ontario Federation of Agriculture asked the government to take away OSPCA police powers. Seventeen years later, 29 OSPCA directors resigned. Eight of them signed a letter addressed to the Premier asking him to take away OSPCA police powers and investigate.

Garnet Lasby, the OSPCA treasurer, said in a May 2006 *Toronto Sun* article by Peter Worthington that government, not the humane society, should be in charge of enforcing laws to protect animals and to prosecute offenders: "The OSPCA should be involved in welfare of

animals and education, not in criminal investigations and prosecutions.... That should be a government role, but they won't change the OSPCA Act unless there's public pressure."

I would like to know why the Premier is even thinking of giving the OSPCA more power when OSPCA directors themselves, including the treasurer, Garnet Lasby, and the chair, Michael Chaddock, resigned and asked for police powers to be removed from the OSPCA.

I am afraid every day since the OSPCA came into my life. I am a retired widow and the mother of two grown daughters and three grown sons. I used to own and operate a successful in-home dog breeding and grooming business. Now I'm being sued by the OSPCA for \$86,228.36. I'm afraid to tell my story and afraid that Bill 50 will just get passed if you don't hear that the OSPCA needs accountability.

I had clients across North America and was proud of my puppies' temperament and health. I always sent them with veterinary and vaccination certificates. I value the letters of recommendation I received from my clients. My dogs were born and raised in my home and I kept excellent records. I operated a municipally licensed kennel.

OSPCA inspectors inspected my home 21 times in three years—just dropped in, never made an appointment. My fears for the animals' health and the parvovirus with the newborn pups were ignored. They handled the newborn puppies anyway without disinfecting their hands.

1210

In September 2005, the OSPCA sent me a letter that said I had fully complied with all the OSPCA orders they had issued. I was so pleased, and thought that the OSPCA was finally respecting me as a legitimate dog breeder.

Six months later, I had an appointment to have my car fixed. Since I would be gone for several hours, I crated my dogs so that they would be safe, and I asked my tenant to come at noon to let the dogs out of the crates and give them fresh water. I locked the doors and left. That day, March 6, 2006, OSPCA officers, two uniformed, armed police officers, and a veterinarian came with a warrant and removed 43 small dogs. My tenant was not allowed in to look after the dogs.

When I arrived home, I found a notice of seizure on my kitchen table with no information about why the dogs had been seized. They went through everything and every drawer in my house. The few dogs that the OSPCA had left behind were hiding, shaking and traumatized, and they've never been the same since.

I appealed the seizure at the Animal Care Review Board in April 2006. They ordered the OSPCA to return the dogs to me. I just had to pay \$51,468.51.

During the Animal Care Review Board hearing, I found out that an undercover OSPCA inspector came to my home pretending to be a client just days before. I also found out that Her Worship Forster refused to grant the

OSPCA's request for a search warrant. The OSPCA asked another justice of the peace and got a warrant.

In August 2006, my daughter Quintessa, who owned the business with me, was charged with 61 counts of animal cruelty, I was charged 61 times, and my daughter Amanda, who was away at college, was also charged with 61 counts of animal cruelty. She wasn't even living there.

At the trial, the OSPCA said if I pled guilty to something, or anything, they would drop the charges against my daughters and most of mine. So on September 17, I pled guilty to confining the dogs to an enclosure with inadequate space, which was for crating the dogs while I was away, and failing to provide veterinary care for an abscessed tooth that they say my papillon had.

The Acting Chair (Mr. David Zimmer): About three minutes.

Ms. Linda Taylor: If I didn't have a heart condition and I had the money, I would have fought. My dogs were supposed to be given back to me; I just didn't have the \$51,000 to buy them back from the OSPCA. The OSPCA has since sold them and I've been publicly branded a puppy mill operator. The OSPCA has labelled Grey-Bruce the "puppy mill capital of Ontario." I am on probation until 2009.

I do think we need the Ontario SPCA and we need strong animal welfare laws, but things can't stay the way they are. I have three recommendations.

They ask for adequate water; well, what is adequate? So we have to have standards.

I would also like the Ontario SPCA to be made accountable for the police powers they have. They should not be given any more police powers.

I would like the OSPCA to be made subject to freedom of information. People need to know how their donated money and their government funding money are spent. How much is the OSPCA spending on lawyers? Who is paying for the uniformed, armed police officers that the OSPCA brings along?

Thank you very much for your time.

The Acting Chair (Mr. David Zimmer): We have about one minute per caucus, beginning with the Liberals.

Mr. Dave Levac: Thank you for your deputation, Ms. Taylor. You indicated that you did appeal to the ACRB and the definition was that the OSPCA—they found in favour of you, and the difficulty was the fact that there was a large bill that you had to pay in order to obtain your dogs.

Ms. Linda Taylor: Yes. Actually, it read that she was to give me the dogs back first and then I was to pay the bill, which they refused.

The Acting Chair (Mr. David Zimmer): To the Conservatives, Mr. Barrett.

Mr. Toby Barrett: Thank you, Ms. Taylor. What you've presented before the committee, I have certainly been hearing as well. I recall, too, hearing similar things in the media about the OSPCA, the turmoil in the past and the concern with their finances.

You will know that this proposed legislation does appear to give considerably more power and influence to the OSPCA. We understand that organizations, humane societies, not affiliated with the OSPCA will not be allowed to use that title, which would limit them with respect to their finances. To my mind, in some areas, they already would perhaps be in competition for fundraising, and they're in competition with an organization that would also, in my view, have a conflict of interest, and they'd be given additional regulatory power as well. So what you have presented, I've heard before. Thank you for your presentation.

The Acting Chair (Mr. David Zimmer): To the NDP, Ms. DiNovo.

Ms. Cheri DiNovo: Thank you for deputing. I'm so sorry for your family and for your loss. We've heard many deputations that have told similar stories about OSPCA actions, which is why I'm very concerned about some degree of transparency and oversight for the sake of the animals, in part, and for yours.

You're not the first to have talked about this charge, that even when you're found innocent—for example, in your case—you're still charged for the upkeep of the animals while they had them. That's particularly onerous.

At any rate, we hear it, we've heard it before, and we will definitely look into this. Thank you for your honesty.

The Acting Chair (Mr. David Zimmer): Thank you very much for taking the time to organize and bring your presentation to this committee.

Ms. Linda Taylor: Thank you for listening.

Mr. Dave Levac: On a point of order, Mr. Chairman: Over the last couple of days, we've had a few presentations that they had in their hands, written, but we didn't receive a copy of them. Can we ask, through the clerk, that we get copies of some of these deputations if they make them available to us?

The Acting Chair (Mr. David Zimmer): Yes. The clerk does distribute all materials that are made available to the committee.

GUELPH HUMANE SOCIETY

The Acting Chair (Mr. David Zimmer): Guelph Humane Society, Elizabeth Bonkink. You will have 15 minutes to present to the committee. I'll give you a three-minute heads-up that your time's about to expire. You may, if you wish, leave time within your 15 minutes for questions from the committee, but that's entirely up to you. If you would identify yourself for the record.

Ms. Elizabeth Bonkink: I am Elizabeth Bonkink. I am the executive director at the Guelph Humane Society. I thank you for the opportunity to present to you today.

The Guelph Humane Society has had a long and illustrious history. We're celebrating 115 years this year. Our first president, A.S. Allan, wrote much of what is now the children's aid legislation. Many people probably know that humane societies originally cared for children as well. So we've been around for an awfully long time. We've come a long way from our first days in the back

of a shed, and unfortunately, animal welfare legislation has not. That's why we applaud the government for seeing this legislation come this far. However, animal welfare agencies have waited a really long time to protect the animals of Ontario. We want to ensure that it's good legislation.

I thank you for the opportunity to be heard on some of the concerning sections of this bill. I'd like to begin by pointing out that the OSPCA does not speak for all animal welfare agencies in Ontario. The Guelph Humane Society is an affiliate, but we haven't always been, and we don't always see eye to eye. They don't necessarily speak for us and they don't even represent our interests; how could they, when they are our fundraising competitors?

1220

This bill gives undue power to OSPCA. The relationship between the humane societies and the SPCA is often misunderstood. The OSPCA does not govern the affiliates any more than the OPP governs a municipal police force. We are not their children; we are their cousins. The Guelph Humane Society was in existence long before the OSPCA, as many humane societies were. We've always operated independently, but we have operated co-operatively.

It is the changes in this structure that concern us most about this bill. While my lawyer tells us that the Guelph Humane Society won't really be affected by section 6—name change—should we choose to disaffiliate, because we're grandfathered prior to 1955, I do have some concern about this with newer organizations.

The current legislation clearly reads, "No society, association or group of individuals, whether incorporated or unincorporated, that is established after the 30th day of May, 1955 shall profess to function as a society having for its object the welfare of or the prevention of cruelty to animals unless it is incorporated and becomes affiliated with the society in accordance with the by-laws of the society." Why does this need to change? This is very clear to me. You cannot consider yourself a humane society or an SPCA unless you follow these rules. What concerns me is, why the wording change in the new bill?

What immediately came to my mind is that one of the members of the board of the SPCA has very public legislation against a neighbour and fundraising competitor who has chosen to use the name "humane society." This concerns me. This is just me speculating on why this is the case, but I would certainly hope that that's not why it's included in the legislation, when this bill was intended to protect the animals of Ontario. Petty squabbling shouldn't be allowed to be in there.

Also in section 6, the chief inspector becomes an appointed position and is given a great deal of power. This does not settle any qualifications for the chief inspector. Under the current structure, an agent would need to have required training, pass a test, and then would be presented to the OSPCA board for ratification. Bill 50 removes all of these checks and balances. It just gives all the power to the chief inspector, who is

appointed by OSPCA. What is stopping OSPCA from revoking or refusing an agent for their own monetary gain? Bill 50 hands power to the OSPCA to effectively control whether we can investigate animal cruelty in our own territory. While we work co-operatively, we compete for donor dollars. My point here is that there need to be some checks and balances added to the legislation. Qualifications should be stated for the chief inspector to ensure that it is someone who knows what they're doing, and that person cannot be allowed to have unchecked power over the affiliates.

This shift in power would concern me a lot less if OSPCA had a stellar history, but just two years ago there was legal action taken against OSPCA because they attempted to change some of their board and bylaws to change the power of their structure. The short story is that what they wanted to do was remove the power of the affiliates who currently govern them. It's a little bit concerning to me that this legislation is now tipping the balance back in that favour.

Lastly, I'd like to take the opportunity to remind all legislators that while the changes in law are needed—and we agree to that—change comes with a cost. The impact of Bill 50 will mean an increased workload for our agents and inspectors. In fact, I'm probably going to need another agent. It will require more training. It will increase our costs for housing and caring for the animals. Funds need to be provided to all organizations, not just OSPCA. We don't see these funds filter down. I hate to keep coming back to money but, bottom line, this is how we pay our staff, this is how we keep our lights on, this is how we care for the animals we have in our shelter; in short, it's how we survive.

Guelph Humane Society has been able to exist for over a century thanks to the generosity of our community and excellent management. But in today's global world, there are no more communities. The media have blurred the lines, and certainly OSPCA has taken advantage of this. In fact, they fundraise in my territory without ever having to visit it. While the government has provided OSPCA with funding on several occasions, none of that reaches their affiliates. They do provide training for my agents and inspectors, but then I have to be able to provide the time for my staff to attend, usually two weeks at a time, and I have to backfill their positions and pay for their travel costs. So it becomes a bit of a situation where, yes, the money is helping to train my people, but it certainly isn't helping my organization.

Please put some consideration into balancing the funding that will be needed to enforce this bill.

The Guelph Humane Society, on the whole, supports this legislation, with some minor tweaking, of course. We applaud the government for finally hearing the needs of the animals we care for. New legislation has been needed for a long time. We have all watched in vain as we've seen animals suffer and die, and we're powerless to make criminal charges stick. Too often, we've had to hand animals back to abusers because we're powerless to do anything. We've all heard a judge say there's not enough

proof of intent to abuse or harm. We need to listen to those who can't speak for themselves, and that means listening pretty hard. I ask you to consider all of these things when you go back to your third reading.

Our business is filled with some very laborious and underpaid work. We have to make some terrible and tough decisions, and we have far too many heartbreaking days. We're rewarded by wagging tails and purrs of kittens. We focus on our victories, and we believe there are better days ahead. With some minor changes to Bill 50, I believe there will be some better days ahead.

I look around and see that you guys have probably all been sitting here a couple of days. Your butts are probably numb. But I remind you that you're doing this for the right reason, that we need this legislation, we need some changes for our animals.

I wish you all the wisdom of a dog, who reminds you to play, and the comfort of a cat, who will warm your pillow, while you make these very tough decisions and listen to all of us speak.

The Acting Chair (Mr. David Zimmer): Thank you. About two minutes per party, beginning with the Conservatives.

Mr. Toby Barrett: I want to thank Guelph Humane Society for that presentation. Thanks for the last 115 years. I raise the question, what would the Guelph area be like if we didn't have the Guelph Humane Society for the last 115 years? I just pose that as a rhetorical question.

You indicated that you're essentially grandfathered. I appreciate you speaking up on behalf of other organizations that have the name "humane society" that were established after 1955. However, if you were to break your affiliation with the OSPCA, what protection would you have under this legislation? I lived in Guelph for a number of years. You would be prevented from calling yourself a humane society, as I understand it. There go 115 years of goodwill, even from just the fundraising perspective.

Ms. Elizabeth Bonkink: If in fact that is the result of this legislation, then, yes, we would have to change our name. I don't know what we could call ourselves. The Guelph? We've lost most of our name, if that's the case.

Mr. Toby Barrett: I heard in previous testimony that the Ontario government had provided \$5 million at some point to OSPCA. Over the years, the Guelph Humane Society would have received Ontario government money?

Ms. Elizabeth Bonkink: Never.

Mr. Toby Barrett: Never?

Ms. Elizabeth Bonkink: As far as I know. We had a Trillium grant four years ago, but that's open to any charitable status—

Mr. Toby Barrett: That's a separate board.

Ms. Elizabeth Bonkink: Right. That's open to any charitable status organization. We've never received funding of dollars.

Mr. Toby Barrett: Do you feel that there are amendments coming that will rectify this problem in this

legislation, or do you have the trust to wait and see if perhaps staff would make some changes in regulation to prevent this kind of unfairness from continuing?

Ms. Elizabeth Bonkink: In terms of funding, I don't believe there's anything in the legislation currently that would allow affiliates like Guelph Humane Society to receive funding. Like I said, it doesn't filter down through OSPCA. They make it available to us through things like training, but there's still a real cost to that for us. Anybody who runs a business knows that you can't just let someone go to training and there's no cost to you. There's a day when they have to miss work, there's travel time, there are all kinds of things that—

The Acting Chair (Mr. David Zimmer): On that note, we'll move to the NDP.

Ms. Cheri DiNovo: Thank you very much for your deputation. Certainly, it rings with what I've been saying in this committee for a while.

The government has made assurances that part of section 6 will be amended.

I want to focus on another part of section 6. I've been told that the reason the OSPCA wants to restrict the use of the term "humane" is for the obvious reason that you can't have anybody asking for entry into people's homes to check if there are animals—to pretend that they're OSPCA. They already have quite considerable powers. This bill might extend those powers. It's important that only those who are affiliated with some centralized body be able to exercise those powers. That's why that other piece is there in section 6; it's not about the "humane society" name or the "humane" name. That's their concern. I was wondering if you could respond to that.

Ms. Elizabeth Bonkink: It's not the name that gets someone in the door; it's the fact that they have the proper uniform, the proper badge, that they have the law at their hand. If you don't have an OSPCA agent's badge, I can't imagine anybody wanting to let you in the door. As it stands now, we always use compliant agreement to enforce laws. We can't go to somebody's door and knock it down, we can't open a car if a dog is sweltering in the heat, without absolute proof. So it's always compliant agreement, and anybody who is going to comply is going to check their facts.

Ms. Cheri DiNovo: Right. So you've addressed that concern, and thank you for that, because we would like to see section 6 removed. Again, this just points to the oversight issue with OSPCA and the transparency that keeps coming up again and again.

Thank you for highlighting again the fact that you are charities and you're competing for charitable dollars.

I've also been told that a committee should be set up where you can apply directly, as a humane society, for those government funds and that it shouldn't have to all rely on what OSPCA says they're going to do with the funds or not. Would it satisfy your concerns if there was an arm's-length, independent committee that oversaw any government funds that you could apply to directly, rather than OSPCA telling you how they're spending it and then inviting you to take part?

Ms. Elizabeth Bonkink: It's certainly how they're doing that right now with some technology grant money. I looked at the application and said, "Oh, this is tailored after Trillium," which is fine; I'm familiar with that process. However, there are an awful lot of us in the animal welfare industry who are not grant writers. I happen to be a grant writer; not a lot of people are. So it may just set up one more stumbling block for people to actually get the money to the animals. I think if you do that, then you need to have a simplified program for that.

The Acting Chair (Mr. David Zimmer): With that, we'll move to the Liberals.

Mr. Dave Levac: I want to follow up on that, because I would suspect that you would not be in favour of simply funnelling money without having an application form of some sort.

Ms. Elizabeth Bonkink: No, I'm just saying that a really heavily laden application form would be—

Mr. Dave Levac: Right. To continue that theme, today the opposition was given a note on exactly how that money is distributed. Of this \$5 million that's being spoken of, \$3 million is earmarked for general infrastructure improvements; \$1.25 million for improvements to services delivery in northern Ontario; \$750,000 is earmarked for information technology improvements, which you've acknowledged. There is also the funding that is inside the \$5 million distributed to branches and affiliates that make application to an impartial advisory committee that does not include the OSPCA. So I'm sure you understand that's the fact today.

Ms. Elizabeth Bonkink: Right. This is the first time this has happened.

Mr. Dave Levac: Yes. I think the implication that you didn't have access to that money might be out there, and it's not true. The reality is that if you make application for that money, you're accessible to it.

Ms. Elizabeth Bonkink: Yes, but the timing is interesting, isn't it?

Mr. Dave Levac: No, it's not.

Ms. Elizabeth Bonkink: That we're discussing whether or not there's funding, and suddenly there's funding today?

Mr. Dave Levac: No, it's not. I don't find it interesting at all, because it hasn't been touched—

Ms. Elizabeth Bonkink: Actually, I got my e-mail last week.

Mr. Dave Levac: —in 90 years. And the fact that—

The Acting Chair (Mr. David Zimmer): Hold it. Not everybody at once.

Mr. Dave Levac: And the fact that section 6—

Ms. Elizabeth Bonkink: I'm sorry, could I please respond? I got my e-mail last week.

Mr. Dave Levac: Excuse me, I have the floor.

The Acting Chair (Mr. David Zimmer): Order. Just stop, everybody. Mr. Levac was finishing his question, and then you can respond and everybody else will listen.

Mr. Dave Levac: Thank you, Mr. Chairman.

Section 6, as indicated by one of the opposition members, as has been said several times over the last two

days—there will be amendments made so that the name cannot be played with.

Number two, you indicated the training is moving from two to four weeks. You're aware that it's moving up to four weeks training, similar to—

Ms. Elizabeth Bonkink: That makes it worse.

Mr. Dave Levac: And are you aware that the province of Ontario contracts the OSPCA and its affiliates and branches for enforcement and not for the charity portion of the delivery of animal welfare?

Ms. Elizabeth Bonkink: We pay for our delivery of animal welfare through charity dollars. I hate to tell you that. We've never once received a penny to deliver our animal welfare program. Our inspector does not get paid by anything but our charitable dollars. We've always fundraised for that.

Mr. Dave Levac: Then something's not right.

Ms. Elizabeth Bonkink: We've never received a cent, and we'd love to know how to get it.

Mr. Dave Levac: Right. Therefore, the monies that you've been applying for, that I'd hope you would make application for, are for that purpose.

Ms. Elizabeth Bonkink: That's not what that money is for. That money is for technology and infrastructure. It is not for running our animal welfare program.

Mr. Dave Levac: Yes, the contract that we're talking about is the contract that is made between the province of Ontario and the OSPCA for enforcement purposes only.

Ms. Elizabeth Bonkink: That's fine, but you just told me there was money to apply for. The money in that grant has nothing to do with providing that service; it's for technology and infrastructure.

Mr. Dave Levac: Right.

Ms. Elizabeth Bonkink: So where is the money that's for us to run this program?

The Acting Chair (Mr. David Zimmer): On that note, we're just a little over your 15 minutes. Thank you very much for organizing your presentation and bringing it before this committee.

Mr. Toby Barrett: On a point of order, Mr. Chair: I have the note here that we've just received. Has this note been made available to the deputant as well?

The Acting Chair (Mr. David Zimmer): Yes. The clerk has informed me it's available as a handout.

Mr. Toby Barrett: Over on the table?

The Acting Chair (Mr. David Zimmer): On the desk to my right.

Is there any other business today in London before this committee? This committee is adjourned to Ottawa. For members of the committee: 2:15 in the front lobby for the bus.

The committee adjourned at 1233.

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of Ontario**
First Session, 39th Parliament

**Assemblée législative
de l'Ontario**
Première session, 39^e législature

**Official Report
of Debates
(Hansard)**

Thursday 24 July 2008

**Journal
des débats
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Jeudi 24 juillet 2008



**Standing Committee on
Justice Policy**

Provincial Animal
Welfare Act, 2008

**Comité permanent
de la justice**

Loi ontarienne de 2008
sur le bien-être des animaux

Chair: Lorenzo Berardinetti
Clerk: Susan Sourial

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STANDING COMMITTEE ON
JUSTICE POLICYCOMITÉ PERMANENT
DE LA JUSTICE

Thursday 24 July 2008

Jeudi 24 juillet 2008

The committee met at 0858 in the Ottawa Marriott Hotel, Ottawa.

PROVINCIAL ANIMAL
WELFARE ACT, 2008LOI ONTARIENNE DE 2008
SUR LE BIEN-ÊTRE DES ANIMAUX

Consideration of Bill 50, An Act to amend the Ontario Society for the Prevention of Cruelty to Animals Act /
Projet de loi 50, Loi modifiant la Loi sur la Société de protection des animaux de l'Ontario.

GLENGARRY LANDOWNERS'
ASSOCIATION

The Acting Chair (Mr. David Zimmer): Good morning, everybody. Welcome to the Standing Committee on Justice Policy hearings on Bill 50. The 9 o'clock slot: the Glengarry Landowners' Association, Ian Cumming. Come forward.

Mr. Cumming, you will have 20 minutes to present. As you approach the five-minute mark, I'll give you a warning that you've got five minutes left. You may or may not wish to leave time for questions from the committee members, but that's your decision.

Mr. Ian Cumming: I'm the furthest from a politician that you ever saw, so there will be a lot of time for questions.

The Acting Chair (Mr. David Zimmer): All right. Please introduce yourself for the record, then we'll get started.

Mr. Ian Cumming: My name is Ian Cumming. I'm president of the Glengarry landowners, the historic county near here. I'm also a full-time dairy farmer. The oldest house in Ontario was built by my ancestors. I'm also, in the interest of full disclosure, a columnist-journalist with the Ontario Farmer, which is the largest farm paper in Ontario, out of London, but that's not why I'm here today. Surveys show that I'm probably their best-read columnist; I have a Don Cherry rant of 750 words every week.

Last fall, in a hotel meeting room here in Ottawa, a couple of hundred people from around the world gathered for an international farm animal welfare conference. There were respected animal welfare scientists, many whom I knew because my wife, Dr. Alison Taylor,

has a Ph.D. in animal welfare, has taught at the University of Guelph and has worked for Agriculture Canada in its fine research. She now works for the University of Guelph at home, in a research capacity. There were others representing groups on the extreme animal rights fringe, many government and industry officials, and a small group of actual farmers that you could count on one hand, out of the 200. Interestingly, over the two-day event of speaker after speaker on farm animal welfare, not one actual farmer from Canada or anywhere in the world was asked to speak. Others already knew, apparently, what should be done about farm animal welfare, just as it appears that the drafters of this OSPCA Bill 50 knew what was best without farmer input.

I'm not going to go over the points of law on this. I'm sure you've heard that from many people, and I've done that in articles in the Ontario Farmer. I think what I want to give to you is a sense of people who live on the gravel roads, on the back roads, and the inherent fears of and unfairness of what is being proposed here. Even the fact that these hearings were held during haying and when the wheat is being combined, and the fall conference last year was held when corn and beans were being taken off—perhaps none of that was deliberate, but it does show the isolation and ignorance and irrelevance held of farmers.

One of the most disconcerting speeches of that conference last fall was given by Hugh Coghill in his capacity as head of enforcement for the OSPCA. The whole conference was videotaped, so I urge you to obtain a copy of the conference, and especially Coghill's speech, to verify what I'm about to tell you and which I reported at the time in the Ontario Farmer.

In speaking to that audience last fall, many who held modern agriculture in arrogant contempt, some having outright hatred, and all being somewhat or totally ignorant of farming, Coghill got peals of laughter when he said in his speech that he would like to take a farmer, shove him in a pig crate in the back of a pickup truck and take him for a ride. Bear in mind that this is who you're giving increased powers to.

My reporting of that statement made in front of 200 people was printed the next week in Ontario Farmer and was rebutted in print soon after by Coghill, who did not say he didn't say that but said my reporting of it was taken out of context and so people should not believe what I wrote. I simply urge each and every one of you to

watch the entire video of his speech and decide for yourself in what context it was said.

Urban society, apparently, does not share my outrage or fear as a farmer. As my editor noted at the time, it would have been a firing offence at the least, with legal repercussions at the most, if that had been said about anyone else other than farmers. Think about if a policeman had said that about a certain ethnic group, like my daughter whom we've adopted from China, or my little daughter whom we're about to adopt from Ethiopia—if someone used the N-word? And when some of you yell at Randy Hillier in the Legislature that he's a hick, that's the same as insulting an ethnic group to me, because that's who we are. In the deepest feeling people have, Bill 50 was drafted by decent people with the same inherent prejudice against agriculture as southern people drafted Jim Crow laws: You do not understand, you think you know what is best, and there's that inherent smugness.

Livestock farms are where the action is for the OSPCA. They tell their enforcement employees that, which is why a long-time respected farmer and mayor, Carl Noble, who sat on the provincial OSPCA board, quit, when he saw the animal rights attitude prevail over the legitimate animal welfare issue. The fact that inspectors wanted and got bulletproof vests and handcuffs troubled him.

Look at the dramatic rise in on-farm visits, in conjunction with the dramatic increase in provincial funding, while the number of livestock farms plummeted. Over 37,000 dairy farms existed in Ontario when I went to high school; today there are 4,000, yet we have way, way more inspectors. The county agriculture offices are closed, I understand, with rural funding now going to conservation authorities and OSPCA buildings, with those employees having to justify their existence.

Today, on my farms there are 185 head of dairy cattle, about 200 head of sheep, and in my wife's domain—these really make money—20 goats, three donkeys, one ox, seven pigs, five rabbits, four guinea pigs, four finches, five cats, two dogs and two llamas—and oh yes, two geese, eight ducks, seven hens, and one guinea hen.

Chances are pretty good you'll find a cow with a mild limp; there was one last night going through the milking parlour. There's a pig receiving medical treatment this week, while a breeding ram has developed pink eye. One of the cats ate nine baby ducklings, and coyotes bother the sheep. My son and I shot 45 coyotes last winter. Under these regulations as written, these suffering animals, plus the wild barn cats not under my wife's domain, whose sole purpose is to keep the rats down, or the guard dog living with the sheep that's trained to kill coyotes, can result in charges against me and my family. Yet semi-wild dogs and cats on a farm, which serve an economic purpose to keep them that way, can result in charges against farmers for keeping them like that, as they have for generations. You might snort in derision and say, "No, charges will not be laid in these instances," yet documented cases, which the press has covered, show

that that's exactly what's happening, and will occur even more with these regulations.

In western Ontario, a sobbing lady once called me because an inspector had seized their pet dog, with the police in tow, which had hurt its leg about an hour before in an accident. The farming couple had gone down to the clinic. They wanted \$1,600 to fix the leg, but the border was closed. They had a beef farm and they had no money, and so they were sitting there holding it in their arms and waiting for their own on-farm vet to arrive to give them a second opinion.

The same inspector also invaded privacy under the charter—so a court determined—with no one home, searching out a pony in the back of a barn that had long hooves that needed trimming. She laid charges. Do you charge parents because their kids' toenails are too long? Yet under these new regulations, that court-determined charter violation of searching a premises without permission is now legal for OSPCA inspectors to do.

When people used to call me like that, I would tell them to go to the animal review board, and everyone who had called had had animals seized, but under these new regulations, the animal review board, which had twice ruled against this inspector and provided some semblance of justice, will now be redundant when the animal has been merely seized. Are the police never wrong, so that they are not subject to justice? If that's a crock, then why are OSPCA inspectors and agents not subject to the same process?

There was a horse seized recently on Manitoulin Island last week because there were burrs in its mane. There was a lame cow near Ottawa, in Phil McNeely's riding, given antibiotics and then put in the small front pasture so that she could recuperate on the comfort of soft ground versus cement, and then the farmer went to the field to make hay. The cow—yes, in pain, but treated and certain to recover, as we would from a sprained ankle, over a week or two—was shot that afternoon by an OSPCA inspector and the farmer charged. The inspector had left a note on the milk bulk tank that morning instructing the farmer to treat the cow—is there an instant cure for lameness in cows or humans?—but he never saw it, being in the field all day.

My brother's children's horse came up with a mild limp, was treated and then put out into the front pasture to recuperate. The OSPCA inspector came roaring up his driveway, and he narrowly escaped charges and the horse being seized, locating the vet just before he went on holiday to verify, with documentation, that he had been there to treat the horse.

This legislation also enables the OSPCA to now stop and seize trucks. It states it specifically. So the next time that a renowned cattle dealer like Frank McMahon buys cattle from me for the US, any OSPCA inspector can, under this law, seize the truck and cattle before they hit the border. Have any of you ridden in a cattle truck? The heat, the bumps, the profound weight loss after only 100 miles? That would be illegal under this legislation. They can now sit at any county fair, cattle dealers' yard or sale

barn and lay charges. You have expanded the scope of law to allow that. If not, then specify it.

I auctioned at a high-class dairy cattle auction in Phil McNeely's riding last Saturday. A buyer from Illinois spent \$23,500 for two head and another from Oklahoma spent \$20,000 for two. We are finally making money again with an open border since November; why in blazes would you pass legislation to stop that? Just how profoundly ignorant about farm economic reality are you? The difference between doing that auction and going, "\$9,000 and \$9,500 and \$10,000 and \$10,500" and just rolling, versus, "Give me \$1,500 and a quarter now"—and maybe she'd go for \$1,600. That's the difference between a closed border and allowing a free flow of animals, and now you want to stop that.

It's not always nice what we do to livestock, so get used to it. Trucking to Oklahoma and Illinois is hard on animals. When your food safety inspectors shut down a slaughter facility in western Ontario a few years ago because of alleged bad meat, which turned out to be totally false, a famous CBC reporter drove into Johnny Walker's yard—the biggest dairy farm, cattle export and poultry producer in Canada. He's in Steve Peters's riding.

0910

The sweet reporter in breathless voice waited for the camera to roll and repeated the alleged abuses that had occurred in the slaughter facility down the road and asked Johnny what he thought about the owner, Butch Clare—a great man, tough as nails, who, incidentally, you financially ruined with no proof.

"Well," Johnny drawled—and excuse this statement, but it's what he said—"you don't hire a nun to run a whorehouse." The camera was lowered; the shocked reporter left. But Johnny was right: The idealism of slaughtering livestock didn't square with the reality.

As a result of what has happened and will happen with this legislation, the cozy little front corral on my farm now sits empty. Cars used to slow and stop so their kids could watch a cow calve and then the calf wobble onto its legs. A sick or injured animal that needed the soft ground and isolation from competing animals at the feed bunk to fully recover also used to be in there—no more. On my farm, indeed now on nearly all farms, they stay inside on the cement, out of sight of those, even on the gravel concessions, who do not understand and so will report to those who will gladly lay charges with the joy of a zealot—and they can report and be anonymous and not have to face the music if they've been wrong.

The ironic thing, folks: Just as we spent five-figure money on high hoes and bulldozers to level our bush and every scenic tree on the farm this spring to not be caught under your new Species at Risk Act, farm animal welfare is worse off because of the abusive powers of this law than without it.

When you give expanded powers to someone who on the record states he would like to stuff a farmer into a pig crate and take him for a ride, you can be assured that

farmers will fight back with a vengeance that will not be pretty to see, and fight we will. Thank you.

The Acting Chair (Mr. David Zimmer): Thank you. We have about two minutes per party, beginning with the Conservatives.

Mr. Robert W. Runciman: I apologize for being a little bit late. I got caught in a traffic jam, which I should have predicted.

I represent a riding that has a large rural component and I very much appreciate the concerns you've put on the record today. I didn't notice in your presentation about warrantless entry, and that's certainly a significant concern as well. I know in the rural part of this province—and this has been a concern for many, many years prior to the introduction of this legislation—the zealotness, if I can use this word, of some inspectors in terms of the way they've approached rural Ontario. This puts another tool in the tool kit that I think raises a real concern.

I introduced private member's legislation a year or two ago about coming in with tougher penalties in terms of dealing with household pets—cats and dogs, essentially—and I alerted the Minister of Community Safety at the time that prior to putting your toe into this water, you have to ensure that you should be conducting extensive consultations with those in rural Ontario, because I know the concerns that have been out there for so many years and the lack of understanding and appreciation of the challenges that we face in the farming community. I'd just like to hear your comments with respect to the enhanced ability with respect to lack of a warrant to enter property; that should be a major concern of all Ontarians.

Mr. Ian Cumming: It is, and I think I referred to it in that—before, when there was an Animal Care Review Board and court cases against a certain inspector who had gone on and, against the charter, had invaded privacy. I remember writing about the court case, and she was legitimately charged and so on and suffered the consequences. Then you notice in the revised version, this new version, that they did enhance that she would have that right to go behind that barn and look for that horse and so on and so forth if she suspected. Of course she suspects, because he or she has been called to go there.

If we hadn't suffered this on a number of occasions and having to take actions—the landowner movement would not have even begun if this wasn't happening. And it's so hard: well-intentioned, urban people and the perception—if you were here for the beginning, my wife comes from a totally different world than I that understands this other part and the way we have—so farmers just take their own steps to combat it. We keep our cattle hidden behind the walls. Pasturing's supposed to be the best thing you can do; I doubt if 2% of dairy farmers pasture any more, because somebody can drive by now and say, "Oh, there's a limping cow."

The Acting Chair (Mr. David Zimmer): On that note, we'll move to the NDP, about two minutes.

Ms. Cheri DiNovo: Thank you, Mr. Cumming, for deputing before us this morning. I just wanted to ask a

couple of questions. The government has said in drafting this bill, and I'm sure you've read it, that the animal review board would still be there ruling. You've said that—

Mr. Ian Cumming: Not if an animal has been seized. Everyone in the past who had called me—as a journalist, they look for someone to call—their animals had been seized. So if an inspector has seized an animal—you can read it; it's there in black and white—then you are not subject to going in front of the Animal Care Review Board. Well, if your animal hasn't been seized, there's no damned reason to go in front of the Animal Care Review Board.

Ms. Cheri DiNovo: Okay. I will certainly reread that section. It's not my understanding, but I will reread it.

The other thing the government would say is that there is an exemption for farm animals in Bill 50. Accepted farm practices would be exempt from this bill. You obviously aren't happy with that.

Mr. Ian Cumming: Tell that to the guy who's got a criminal charge against him in Phil McNeely's riding who had his cow shot. Tell that to my brother, who, if he hadn't caught the vet who was just ready to leave to go on an airplane, would have also had a charge against him. I can line up those who had charges against them from me to that door, because what are considered normal farm practices to me are not considered normal.

If you put in the definition of abuse or suffering, and someone—if I truck a cow from here to Oklahoma, my God, she's going to be in bad shape when she gets out the other way, and one's on its way now. But the point I'm trying to make is that I accept that; I know that. An inspector who comes from the animal rights world rather than—I mean, ask these ones behind me today how many cows they've milked. Ask them the difference between a beef cow and a cow for beef. Ask them to list the six dairy breeds that exist in Canada. They know nothing—nothing—and it's frightening.

Ms. Cheri DiNovo: The other thing we've heard—I'm just asking for them; I'm not saying I agree with these things, I'm just asking you for your comment upon them—is that not all farmers object to Bill 50, that there is a significant number of farmers who would welcome inspection, for example, of their—

Mr. Ian Cumming: Name one, name two. I would like to know.

The Acting Chair (Mr. David Zimmer): On that note, we'll move to the Liberals. Mr. Levac, you've got two minutes.

Mr. Dave Levac: Thank you for your presentation, sir. The purpose of these committees is to hear those stories, to hear those concerns and issues. Up to this point, from your presentation, I gather that the present situation is what's not acceptable, and that with the introduction of Bill 50, you believe that it'll be even worse.

Mr. Ian Cumming: Well, my Momma taught me how to read the English language, and what you put in there is worse.

Mr. Dave Levac: Okay. Are you aware that the ministry consulted with the Ontario Federation of Agriculture and the Ontario Farm Animal Council?

Mr. Ian Cumming: Exactly. I interviewed Kelly Daynard, and she listed all the concerns. I did an article on her and interviewed her for the Ontario Farmer, last week or the week before last—I forget which—and she listed all the same concerns, which she does more politely, I guess, than what I've brought out: warrantless entry and things not verified.

You can look at me and be reasonable, and everybody here can be reasonable. Phil McNeely knows agriculture, except for pig farming; he gets a little excited about that. The point is that we can agree on what's reasonable here today, but it's these people behind whom you've given this broad scope to make the definition. You've given them real powers that are—

Mr. Dave Levac: When you talk about seizure, my understanding is, and I will look into it as well, that the Animal Care Review Board does do those cases and has had appeals with people who have had their animals seized.

Mr. Ian Cumming: Exactly. But, once again, knowing how to read the English language, read your legislation. It says in there in specifically that that is now redundant if an animal has been seized.

Mr. Dave Levac: The review is redundant?

Mr. Ian Cumming: Redundant if an animal has been seized.

Mr. Dave Levac: We'll look into that, absolutely.

Mr. Ian Cumming: Well, it's there, in the English language. Does somebody have a copy?

The Acting Chair (Mr. David Zimmer): On that note, we've used up the 20 minutes. Thank you very much for attending before the committee, organizing your presentation and sharing your thoughts with us on this issue.

Mr. Ian Cumming: Thank you very much.

Mr. Lou Rinaldi: Chair, on a point of order: I noticed this morning—and maybe I should've noticed before, but just for an explanation—that we have 20-minute presentations today. All other presentations were 15 minutes. I'm just wondering if we could have some type of—for the public.

0920

The Acting Chair (Mr. David Zimmer): The subcommittee report said that if we had a certain threshold of people, we'd lower it to 15, and if we had more time, we'd increase it to 20. We have more time; it's been increased to 20 for today only.

Mr. Lou Rinaldi: Obviously I wasn't paying attention. Thank you.

PETER BENNISON

LYNNE BOWKER

The Acting Chair (Mr. David Zimmer): Peter Bennison and Lynne Bowker? Come forward and have a seat up here. You have 20 minutes for your presentation.

I'll give you a five-minute warning as you approach the end of the 20. You may wish to leave time for questions from this committee, but that's your decision. Would you introduce yourself for the record, please?

Mr. Peter Bennison: Certainly. I'll go first: My name is Peter Bennison. I'm appearing as a private citizen. I don't have any affiliation with any organization or journalistic set-up.

The Acting Chair (Mr. David Zimmer): And would you introduce yourself?

Ms. Lynne Bowker: I'm Lynne Bowker. I'm Peter's wife, and I'm a tenured associate professor at the University of Ottawa, although I'm not here representing them today. I'm here also as a private citizen.

The Acting Chair (Mr. David Zimmer): All right. Thank you.

Mr. Peter Bennison: Thank you for letting us speak today. I just want to outline where we're coming from. Back in the spring, Bill S-203 at the federal level passed third reading. We felt that it was sort of a poor substitute for the amendments to the federal Criminal Code to actually represent the interests of animals. We had tried to organize a letter-writing campaign to the various MPs, the Senate and the House of Commons. We got some responses back—some thoughtful, some not—and a lot of non-responses. I felt, and I believe we felt, that we'd like to engage the process a little more. So when we saw on the CPAC channel that Bill 50 was having committee hearings this summer, we registered. We hope that the outcome of our submission today will be a little more effective in helping the legislation reach a final state that's suitable for everyone's interests in Ontario.

To begin with, I just want to go through the bill. You can see the points I have in front of you there. After reading the bill and trying to understand the issues around animal welfare, I feel that I have a few comments that are valid and worthy of record.

Point 1 states that I think that this is a good bill. It defines animal distress and it sets the maximum penalties correctly. My slight concern is that subsections 11.1(1) and 11.2(1) may be a little too broad—and perhaps the previous speaker might have been speaking to that. I'm not a legal expert, but maybe adding an extra dimension around wilful acts or negligence explicitly might help with allaying some of the concerns of certain communities.

The prohibition on animal fighting I think is bang on. I'm quite pleased with that. It's well written, and unfortunately it's very germane to the current state of society, so I'm pleased that's there. Especially, the banning on equipment is also a very insightful element.

The provision on ownership restrictions, up to a lifetime ban: That's very explicit. I think that will be a very useful tool.

On to point 4: I don't want to set up as a counterpoint to Mr. Cumming, but I think, as I read it, the bill does exclude specifically the distressed animal in animal husbandry and agriculture. Even the previous speaker indicated that commercial agriculture can cause distress

to these animals. It's too complex to deal with in this legislation, so for the purposes of trying to pass it, this is a wise exclusion.

The exception to wildlife I'm less happy about, mainly because of a fairly specific circumstance which maybe can be dealt with, which is that it creates a loophole so that if someone wantonly tortures a raccoon, say, or wildlife—the way I understand it, it seems like that could be excluded simply because the animal is something that's wildlife and not a domestic pet or something.

But saying all that, I recognize that I'm part of a broader community. Agriculture is obviously an important element of the Ontario economy; so is hunting and fishing, for not only members of Ontario but also First Nations. Out of respect for those fellow citizens, I agree with this exclusion, but I ask the committee to consider adding an additional clause around wanton torture of wildlife, just to clarify.

My last specific point is around the issuing of warrants. Again, being no expert, I think it seems to clarify the issue of when warrants are issued, when they can be issued over telewarrants, and when they are done when the animal's in immediate danger. I suppose, in any sort of non-codified legislative set-up where law is written and the interpretation of it is held to judges and justices of the peace, this is something that will have to evolve over time in terms of what's accepted as best practice in animal husbandry from a legal perspective. I think the system needs to be let to run its course. If the excesses that have been identified before the committee this morning are true, then it's really up to the justice system to establish that body of case law that indicates, "Hey, it is not right to do this." Unfortunately, that's something that has to evolve over time, like any legislation.

In conclusion, I think it represents an important step in updating legislation to reflect prevailing attitudes of many Ontarians. In my limited experience, when we've been socializing and talking amongst our friends and colleagues, many people we talk to are surprised that a lot of these provisions weren't already enforced. So I think this shows that this is more of a lagging adjustment than a leading one, and is therefore quite suitable for consideration.

Ms. Lynne Bowker: Hi. I just wanted to add a few comments to those made by Peter. First of all, thank you for giving us the opportunity to address the committee on the subject of animal welfare legislation and, specifically, on Bill 50. As I mentioned, I'm here today in my capacity as a citizen of Ontario and also as a concerned parent of two young children.

I'm becoming increasingly distressed by the attitude of indifference to animal suffering and abuse that I think is on the rise in our society. Something that the previous speaker said stayed with me. I realize that he was talking in the context of agriculture, farm animals and livestock, but he said something to the effect of—and I'm paraphrasing because I don't have his exact words—the way we treat animals isn't nice, so get used to it.

I think there's been a little bit too much of "getting used to" the way that we treat animals in our society. I do

think that there's a big difference between accepted animal husbandry practices and things like dragging a dog behind a car; putting a cat in a microwave; weighting a dog down with barbells and throwing him into a river; throwing a cat from a moving car; lighting a dog on fire; beating a cat to death with a tire iron; starving a horse; throwing a puppy against a wall; and, something that happened here in Ottawa not too long ago, tying a dog in the stairwell of an apartment building and leaving it to starve to death over a period of weeks. These are all things that have happened—not all in Ontario, but all in Canada—over the past couple of years, things that have been reported on the news. They're not isolated incidents anymore. I think we'd like to believe that they were isolated incidents, but they're not. It's just becoming part of our culture of indifference.

I think that this is not a place that I'm proud to live in when I see that this legislation hasn't been updated for almost 100 years in any substantial way. I think it's well beyond time that we get to that. So I'm extremely pleased that the committee is reviewing Bill 50 with a view to updating these laws, and I think it's very welcome.

In my opinion, Bill 50 has a lot of strengths to it. Some of the provisions that I was very happy to see include the provisions to outlaw animal fighting and the training of animals to fight. I'm happy to see a significant increase in penalties for people who do break the laws. I was also happy to see that veterinarians are now required to report suspected cases of abuse, although I do think probably some guidelines or clarifications as to what could constitute abuse might be welcomed by the veterinary community. I'm happy with those changes, and I hope the committee would retain those items, but I do think there are some problem areas in the proposed bill that warrant further examination and modification by the committee.

0930

One of the areas that concerned me—and I'm not a lawyer, I'm not a legal expert, so this is just an average person reading the bill and my interpretation of it—was section 6, which restricts the use of terms such as “humane society” and “society for the prevention of cruelty to animals.” I question whether it's really under the mandate of the provincial government to legislate the use of such a name. I'm not really sure that this is appropriate, and I don't see how this is really relevant to the greater purpose of the bill, which is the protection of animals and the prevention of cruelty. So I would really strongly urge the committee to rethink section 6 and whether that really needs to be there in order to move this legislation forward.

Another concern that I have is that while I'm quite in favour of giving additional powers to animal inspectors, because I think at the moment they really don't have the power that they need to enforce and prevent some of these situations, I do think that we need to be careful. When you give power, you also need to have some controls in place. I think that might be one thing that's missing and something that could possibly be given

greater consideration: to have some kind of overseer for the SPCA so that there's a check in place so that they don't get out of control with power—not insinuating that they would, but to prevent that possibility.

Another concern that I have is that if the inspectors are given greater power, presumably they will be carrying out more inspections, presumably they will be attempting to enforce these laws, but since most of these organizations run on donations from private citizens, I'm wondering how these extra costs are going to be borne and whether or not there should be some budget line attached to this. It's not really fair to say, “Well, you have the authority now to do this,” but to not have the practical means to actually carry it out.

The final point that I wanted to comment on was one gap that I see in this proposed legislation. I realize that it is a huge step forward and maybe it's not possible to cover everything at once, but there did seem to me to be one area where it could be expanded, and that was the situation of what was sometimes referred to as roadside zoos or these kinds of collections of animals that are not approved by the zoo and aquarium association. A lot of these animals are suffering, I think, in really appalling conditions. There was, from my reading of the Hansards, a private member's bill that was put forward in 2006 but which did not actually get passed into legislation, and I wonder if the committee might find it beneficial to take another look at that legislation that was proposed—it was Bill 154, introduced by David Zimmer in October 2006—and to see whether some of those ideas could also be incorporated into Bill 50 in order to close what I see as a little gap in that legislation.

In summary, I feel that Bill 50 does in fact represent a step forward with regard to improving animal welfare in Ontario. I think it's maybe not as strong as it could be or should be, but I do think it's a step in the right direction. I really hope that the committee will give full and careful consideration to fixing some of the shortcomings and gaps. I think this committee really has an opportunity to stand up and say, “It's time to put an end to animal cruelty in Ontario,” and I thank you for being here to consider that.

The Acting Chair (Mr. David Zimmer): We've got about two minutes per party, beginning with the NDP.

Ms. Cheri DiNovo: Thank you for deputing. I found what you had to say very wise and certainly along the lines of the way we're going in the New Democratic Party.

I have a couple of questions, based on the previous deputations.

I agree that section 6 should go, but it has been said to us that the first part of section 6 needs to stay so that those, for example, impersonating OSPCA officers won't gain entry. I was wondering if you could respond to that.

I'll fire three questions at you, so you can respond to them all.

Certainly we've heard, and I think rightly so, that there needs to be some sort of oversight of the OSPCA, especially with their increased powers. In terms of the

zoo issue—and we were supporters of Mr. Zimmer's bill—I have heard compelling evidence that to include the word “zoo” would actually weaken this bill, that because they call them “educational institutions” or something else, really what you want is the power to inspect, that that enhanced power would then include the intent of Mr. Zimmer's bill. I wanted to hear you comment on that.

Ms. Lynne Bowker: As far as the issue of confusion or misrepresentation, I'm not sure. Personally, I don't find this a very realistic argument. I think the inspectors are probably given some form of identification that they can show, and really, how likely is it that somebody would impersonate an inspector when they could certainly report to an actual inspector? I just don't find that a very credible argument. I think the risk for confusion is extremely low, and that it does more harm than good. It maybe has a good intention, but I don't find that to be a credible argument and I would really be in favour of removing section 6 from the bill.

I agree with some form of oversight for increased power, but I'm not sure what your question was with regard to that.

Ms. Cheri DiNovo: For example, would Ombudsman oversight be an appropriate way to go? We have an Ombudsman in Ontario; would Ombudsman oversight of the OSPCA be the way to go?

The Acting Chair (Mr. David Zimmer): Just very briefly, because we have to move on.

Ms. Lynne Bowker: Actually, to be honest, I'm not sure what form it should take, but my concern was that there didn't seem to be any included in the legislation. I think you are probably better positioned than me to decide the form it should take, but there should be something.

The Acting Chair (Mr. David Zimmer): On that note, we'll move to the Liberals.

Mr. Phil McNeely: This is my first part of these hearings, but I understand that at an earlier hearing we've urged that the committee strike section 6 from Bill 50. That's already been mentioned by—

Mr. Dave Levac: Amend.

Mr. Phil McNeely: To amend.

On section 6, this is something that from personal experience back a few years is really important to me. I'd like to see parts of section 6 which were there, and I would hope that we could maintain the intent of section 6 to ensure that only the animal welfare organizations that provide real services to the public and animals can use the name “humane society.” The experience was very troubling and very costly at the time. Most people when they see “humane society” have a different context for it. I hope we can come up with a mechanism that ensures this happens. Do you have any suggestions on how this could be achieved, to make sure we keep the real organizations?

Ms. Lynne Bowker: I agree with you that the intent should be preserved, and I think the intent is good. But I'm not sure that legislating a name will achieve that

intent. The affiliation can still be there—the requirement for affiliation and the requirement to meet certain criteria to be an animal welfare society. My problem is really with the label, the name, that it has to be attached to the name. I don't think that is actually moving forward the intent in the way that you would hope.

Mr. Peter Bennison: I think that a definition of what constitutes a humane society would be a much better indicator as opposed to just zeroing in on the name. That would tend to bloat out the section, because if you don't meet the terms, then obviously a local SPCA which is doing really well and doing good work but doesn't have the facilities or resources to meet that standard would then be stripped of its name.

My position around striking is that it does seem to be a point of controversy. I suppose legislation does get passed all the time with controversial elements that not everyone agrees on, but it did seem to be, within the context of promoting welfare and updating very old legislation, a little incongruous with everything else. Not to say that it isn't an important issue, but maybe it could be addressed in a subsequent piece of legislation.

The Acting Chair (Mr. David Zimmer): On that note, we'll move to the Conservatives. Mr. Runciman, about two minutes.

Mr. Robert W. Runciman: Thank you for your presentation. I'm glad to hear that section 6 is going to be amended, because that was one of the areas where the minister was sticking his toe into a long-standing competition—perhaps that's the right word—between the OSPCA and especially the Toronto Humane Society. My wife and I have been contributors to both, so we can claim neutrality on that one, over the years. But I take issue a bit with your comments related to warrantless entry and letting the courts determine what's appropriate through case law. I think most Canadians, especially in terms of criminal law and the interpretation of the courts, are pretty upset with some of the conclusions of the courts with respect to that area of the law, and I think, in terms of the Legislature and the Parliament of Canada, we should be as clear as we possibly can be in terms of what the intent of the Legislature is in the final drafting of any legislation. I've expressed my concern and my party's concern with respect to warrantless entry and the impact that could have, especially in rural Ontario.

0940

I just wanted to mention your comment about the increasing abuse of animals. Certainly that's a concern of mine. I introduced private member's legislation dealing with cats and dogs. But I think you know that there's perhaps increased awareness and concern. I remember when I was in the Solicitor General's office, the most calls I ever received were when a lady dragged a dog behind a car as punishment. I think more and more people are concerned and are reporting these kinds of incidents. I feel pretty good about the way people—I know when I introduced my bill, and I'm sure Mr. Zimmer had the same reaction with his legislation—genuinely care. I guess the concern, representing a rural riding, is that we

don't go overboard—and fewer and fewer people. You mentioned the farming community's comments here.

I go into a barn and I see very few cows going out into the pasture anymore because of modern farming on these large-scale farms, and it does bother me, and I'm sure it bothers the farming community as well. But part of that concern, of course, is the interpretation, the misunderstanding, of people who don't have any awareness or understanding of what goes on in farming today. Perhaps that's a weakness or a failure of our education system as well to get people more engaged in farming, what it means to farm and how important it is to all of us so that we can continue to maintain a healthy rural part of this province.

The Acting Chair (Mr. David Zimmer): Thank you very much. We've gone slightly over the 20 minutes. Thank you very much for taking the time to appear before the committee and organizing your presentation.

Ms. Lynne Bowker: Thank you. If I could just make a very brief comment: I agree with you that people do care, but in our conversations people are surprised. They think this legislation already exists. I also agree with your point about education, and as an educator myself, I certainly believe in the power of education, and I think we all need to do better in that regard.

The Acting Chair (Mr. David Zimmer): Thank you very much.

OTTAWA HUMANE SOCIETY

The Acting Chair (Mr. David Zimmer): Committee members, we're going to move to the 10:40 slot, the Ottawa Humane Society, Connie Mallory and Miriam Smith. You have 20 minutes for your presentation. I'll give you a five-minute warning as you approach the end of that time. You may or may not want to leave time for questions from the members of the committee, but that's your choice. If you will introduce yourselves for the Hansard record.

Ms. Connie Mallory: Thank you, Mr. Chair and members of the committee, for allowing us to express our approval and enthusiasm for changes to this act. My name is Connie Mallory. I am the senior inspector for eastern Ontario. I have worked with the SPCA for 14 years, first as a shelter manager doing investigations, and then moving on to senior inspector. My previous work history is that of working in a veterinary clinic, a mixed animal and small animal practice, for 14 years. I have worked on a dairy farm. I was the herds person for several years, managing the milking herd, and much to the comments of our earlier speaker, I have milked cows, many of them, so I'm very familiar with livestock.

As the senior inspector I've also, through the course of my careers, coached young equestrians and have trained horses. So I'm well-versed on horses, and they're becoming a very large part of our community pets, you might say. As a senior inspector and manager of the investigations in eastern Ontario, I continue to take training seminars and courses to improve my ability in that capacity.

Significant changes have not been made to this piece of legislation in 90 years, and I am excited at the prospect of change. Now we have a bill that I believe the vast majority of Ontarians approve of and support. Enhancing animal protection by improving the OSPCA Act will not only improve animal welfare in this province, it will also raise the bar for other provinces in Canada.

In the current legislation, only people who breed animals for the purpose of sale are subject to provincial offence charges under the act. All other animal owners who fail to provide the necessary food, water and care, or standards of care, are subject to Criminal Code charges; they are tried in the same court as murderers. They will receive, if found guilty, a criminal record, and it could potentially ruin their life. They are not able to travel outside of Ontario, or Canada, and your job scope is very limited if you have a criminal charge and a criminal offence against your name. Many people we investigate are those who are in need of help, but they don't know where to turn. They have limited financial resources and get in over their heads, and animals suffer and die needlessly. Are these people criminals? I think there's a better way that we can handle these situations. Currently our only course of action is to lay a Criminal Code charge. In many cases, if we don't lay the charge out of empathy toward the people we are investigating, often-times the police will lay it.

Bill 50 gives the Ontario SPCA investigators an effective tool to punish as well as help. It allows for a penalty that will prohibit people from owning animals or limit the number of animals that they can responsibly care for. This too will give investigators an opportunity to educate animal owners on responsible animal care, and Criminal Code charges could and should be reserved for heinous crimes against animals.

Under current legislation, if an animal is removed under the authority of the OSPCA Act, animals must be returned back to their owner once the animal is no longer in distress. How awful would that have been for the dog named A.K., who had his ears horrifically removed by his owner to make him look a little bit more aggressive? Fortunately for that dog, the owner chose to surrender the dog to the society, and we were able to provide the necessary care for it. If Bill 50 passes, it will give the OSPCA an opportunity to apply to a judge to have the animal remain under the care of the OSPCA until the investigation is concluded or the case has been heard in the courts.

An earlier speaker said that if we remove animals, the ACRB no longer has jurisdiction of that removal. We are still accountable for the actions that we take, and unless we lay a charge or go to a judge to obtain an order to have that dog remain in our custody, it will still go through the Animal Care Review Board if the owner of the animal feels that he has been unjustly treated. It would be nice if some of our critics would actually have a look at this bill and read it thoroughly so that they understand what exactly it says in there.

Do we make mistakes as investigators? Absolutely. To err is human. However we, as an organization, have

learned from the mistakes of officers by improving and intensifying training given to new and existing investigators to prevent those mistakes from happening again. New agents must complete 10 days of extensive training and 30 days of online training given by M.D. Burgess and Associates. M.D. Burgess and Associates is a renowned training company that is known in nine countries. It is a multi-faceted, privately owned company that operates both independently and in strategic partnership with colleges and traditional training agencies as well as government agencies. Next year, the OSPCA is looking at expanding our training of new agents to four weeks, similar to that that is undertaken by special constables.

0950

We've heard today about warrantless entries. We as investigators do have the right now to actually enter a property if we see an animal in immediate distress. I'd like to comment on an experience that I had a number of years ago with a woman who was in a women's shelter. She was there for safe haven from being beaten by her spouse. She called and asked me if I would go and check on her dog, so I went to the property. My authority is to knock on the door, which I did. If I see an animal in distress, I can deal with it. On that particular day, I did not see the dog. But on Monday morning, when I arrived at work, after I'd called her and said, "I'm sorry, I don't see your dog. He must be fine," I received a call from the Ontario Provincial Police, who asked me if we had room in our morgue to store a dog. I started asking him the description of this dog, only to find out that this was the very same dog that was found in a garage on this woman's property that had been brutally mutilated with a knife and castrated. Would I have been able to help that dog if I'd had the ability to go into the garage, if I had reasonable concern to determine if that animal was in distress? At that time, I did not. Would I have been able to save it? I'm not sure. But having known the situation that that woman had experienced, it would have been nice for me to actually check that out, to see if there was a dog in the garage and to determine if it was safe or needed any extra care.

The investigations department has been very proactive in building a strong force of investigators, resulting in Ontario being amongst the most highly trained and professional animal welfare inspectorates in Canada. Currently, the SPCA offers 50 additional training days to existing inspectors and investigators from the staff of OFAC—the Ontario Farm Animal Council—OMAFRA, M.D. Burgess and Associates, active police officers and professors from Algonquin College in the aspects of justice and criminal training. We are actively working with OMAFRA, the Ontario agriculture and food ministry, to develop an auditable curriculum that will be offered to investigators for livestock training.

In 2007, Ontario SPCA inspectors responded to over 16,000 complaints, including 1,428 farm animal complaints, issuing 2,581 orders, executing 148 search warrants and laying 254 Criminal Code charges. These

numbers alone tell me that our investigators are taking an educational approach to animal welfare and compliance.

Our mission is to facilitate and provide for province-wide leadership on matters relating to the prevention of cruelty to animals. The word "prevention" is in our act. Bill 50 will give us the ability to prevent people from causing and permitting distress to animals, prevent people from having more animals than they can responsibly care for, prevent an animal from suffering—with the ability to inspect if we have reasonable grounds for believing that an animal may be in distress—and prevent animal cruelty through education.

I'd like to thank all of those who have contributed to this bill to improve animal welfare. I'm really excited about moving forward and making the changes that are necessary for animal welfare.

I'll turn it over to Inspector Smith.

Ms. Miriam Smith: My name is Miriam Smith. I'm employed at the Ottawa Humane Society and have been since 1989. I am currently the manager of emergency animal protection services at the humane society.

First of all, let me say that I am in support of Bill 50 and the changes to the OSPCA Act. I commend the individuals who have obviously put in a lot of work on the proposed changes to the OSPCA Act. As most of you know, it has been some time since there were any substantial changes.

Just to give you a bit of background on myself, I've been an OSPCA inspector for the past seven years, and for the 10 years prior to that I was an agent of the OSPCA. Over the past 17 years as an investigator, if you can imagine, I have seen quite a bit. I've investigated cruelty and neglect in all kinds of animals, anything from guinea pigs to species that were sometimes unidentifiable at the time of initial contact. I'm going to walk you through a couple of descriptions of dog situations that we have had. Obviously, over the 17 years I could walk you through quite a few unfortunate situations.

This particular dog that came in to us could not be examined or even assessed by a veterinarian because it was so neglected. The matting of its fur was so bad, with ground-in dirt, urine and feces, that a veterinarian was even unable to assess the dog's condition at the time without being groomed, and by "grooming" I mean totally shaven down. The dog was weighed before and after the grooming, and the hair, feces, urine and dirt all weighed about a third of the dog's total weight beforehand. So if you can imagine carrying around an extra third of your body weight unnecessarily—

The Acting Chair (Mr. David Zimmer): You have five minutes left.

Ms. Miriam Smith: Thank you.

The dog also had sores around its neck that you would not have noticed otherwise.

I have seen a dog that was allowed to die by its owner, and initially you could not tell the head from the tail due to its condition. It had mouth sores, rotten and broken teeth, feces and urine ground into the fur, extensive matting of the fur, its nails were so long that some had

grown back around into its pads, and a smell so strong that it would make most people sick.

Both of these animals were family pets. Would you say these animals were in distress? Are these owners criminals? Should these owners be charged under the Criminal Code of Canada? Should these owners be allowed to let their animals be neglected without any consequences?

Currently, we have to provide wilful intent in order to charge owners under the Criminal Code of Canada. With the new provisions of Bill 50, there will be provincial offences and penalties within the act itself to address these matters that are less criminal. In almost all cases of livestock, we currently utilize the codes of practice put together by the industry, for the industry. We utilize experts within OMAFRA as well as veterinarians for those cases requiring them.

As an agent and now inspector, I have taken an oath as an OSPCA investigator to fully enforce the OSPCA Act. Within this oath I have sworn that, should an animal be found in distress within the meaning of the act, I will ensure that the animal is supplied with the necessary food, care and treatment to relieve its distress; issue an order or remove the animal or have the animal euthanized; and, should there be reasonable grounds for believing an animal is in distress in any place, I will make every lawful attempt to obtain entry, including applying to a justice of the peace for a search warrant as provided within the OSPCA Act.

In the past 19 years at the Ottawa Humane Society we have only been requested to sit before the Animal Care Review Board once, and our removal order was ruled to be justified. Since then, we have modified procedures to assist us in our investigations. We are constantly learning, as each separate animal industry is constantly changing. We hold a high standard for our inspectors and agents, and every time we respond to situations, we always ensure that we are abiding by the oath of the OSPCA agent or inspector. We question everything that we do to ensure we are abiding by the law. That includes that people's rights are not being violated, that the animal is in immediate distress and that, without our intervention, the animal will suffer.

Ultimately, it is in the best interest of the animals that we make changes to the current OSPCA Act to ensure that all animals are treated humanely, no matter their use. Bill 50 will start to address those issues. The Ottawa Humane Society always tries to prevent cruelty through education, and opts for court proceeding only as a last resort. Thank you very much.

The Acting Chair (Mr. David Zimmer): We have about a minute per caucus, starting with the Conservatives..

Mr. Robert W. Runciman: Since you're the only folks from the enforcement side appearing here today, I guess I'm curious: In terms of the warrantless entry, what time is involved, on average—either through telewarrant or through an appearance before a JP—for that process? What's the minimum standard of evidence required to

have a warrant issued? How does that minimum standard stack up against what your colleague mentioned is a reasonable concern?

Ms. Miriam Smith: I have been to the justice of the peace to obtain a search warrant. We have to provide all the information that there are reasonable grounds that an animal is in distress. I have waited up to seven hours for a search warrant. It can be rather challenging. One of the things where warrantless entry would be beneficial is for a case where we might know that there may be kittens or puppies locked in the trunk of a vehicle. We can't see them there, and currently we have no authorization to open the trunk of the car to remove those animals. If it would take us six or seven hours to meet with the justice of the peace, in that time frame, if those kittens or puppies are in the trunk of the car, they would be suffering terribly and possibly may not even be alive. That would be my example where warrantless entry would be very beneficial.

1000

The Acting Chair (Mr. David Zimmer): On that note, we'll move to the NDP.

Ms. Cheri DiNovo: Thank you for your deputation; it was heartfelt. And thank you for what you do for animal welfare. We have no question with what you do; it's more with the oversight of your board of directors, probably, and section 6, which may prevent other humane societies from doing what you do. So to extend animal welfare is our aim, and strengthening Bill 50 here.

One of the concerns that has been raised by the OSPCA—not you, but the people who you report to—is that the bylaws are kept secret and people can't have access to them. I'm wondering if you know anything about that—again, it's not your issue per se—and why, as a public charity, that can't be accommodated?

Ms. Connie Mallory: I'm not really sure why that can't be accommodated. Our CEO and the chief inspector, I believe, are presenting on Friday. I hate to pass the buck onto them, but I think that that would be the best course of action.

Ms. Cheri DiNovo: Absolutely. Again, it's just that section 6 that's a little egregious, but thank you again for what you do.

The Acting Chair (Mr. David Zimmer): We'll move to the Liberals.

Mr. Dave Levac: Thank you. Just three quick points: Number one, we've indicated several times, and continue to do so, that section 6 will be amended.

Number two, warrantless entry: You brought us some clarity, Inspector, and I appreciate that—that it already exists; it's not new. There are three reasons: One is permission from the owner; two, to determine if the previously issued compliance orders have been obeyed; and three, which is the one that is being changed from "observe" to given "reasonable grounds." So those are the two changes, and the example you gave is a perfect one: If you can't see the animal, you can't go in. Now you can, if you have reasonable grounds to believe that

there's—and we'll still have to show it to the test of the criminal courts, if it does get that far.

The third thing that I wanted to know is, the previous inspector who was in charge of a region indicated that—we heard deputation that there were a few people who were overzealous. Do you review your inspectors? Do you guide them, help them, modify their behaviour if they go over the line?

Ms. Connie Mallory: Absolutely. I believe that getting together as a group—in my particular region, we meet on a regular basis and discuss cases and challenges. I also meet one on one with an investigator who may not have acted appropriately. I believe in putting the best face of the Ontario SPCA out there, and I expect that of the enforcement people who I manage.

The Acting Chair (Mr. David Zimmer): Thank you very much for your presentation and thank you for taking the time to organize it and present it today.

INTERNATIONAL FUND FOR ANIMAL WELFARE

The Acting Chair (Mr. David Zimmer): Committee members, we'll move to the 10:20 a.m. slot, the International Fund for Animal Welfare, Kim Elmslie and Barb Cartwright. You will have 20 minutes to present. I'll give you a five-minute warning as you approach the end of your time. You may want to leave time for questions from the committee, but that's your decision. If you'll identify yourself for the Hansard record.

Ms. Barb Cartwright: Chair and committee members, thank you for the opportunity to appear before you today to present to you on Bill 50, An Act to amend the Ontario Society for the Prevention of Cruelty to Animals Act. My name is Barbara Cartwright, and I'm the campaigns manager for the International Fund for Animal Welfare. I'm co-presenting with my colleague, Kim Elmslie.

The mission of the International Fund for Animal Welfare, or IFAW, as we are known, is to improve the welfare of wild and domestic animals throughout the world by reducing commercial exploitation of animals, protecting wildlife habitats and assisting animals in distress. IFAW seeks to motivate the public to prevent cruelty to animals and to promote animal welfare and conservation policies that advance both the welfare and well-being of animals and people. IFAW has more than two million supporters and is staffed by 300 experienced campaigners, legal and political experts, and acclaimed scientists in 16 offices around the world. IFAW has more than 45,000 supporters here in Canada.

IFAW supports the intent of Bill 50. The bill endeavours to protect animals from cruelty by creating legislation that will encompass and protect all animals from distress by creating new powers for the SPCA officers and by increasing penalties. Additionally, Bill 50 strives to provide better welfare for animals by proposing minimum standards of care for all animals.

In order to truly understand the importance of this new legislation for the province of Ontario, I feel that it is

important to also understand the deficiencies in our federal animal cruelty legislation. Canada's federal legislation has not been substantially updated since 1892, with the notable exception of a recent amendment to the penalties section of the code in the form of Bill S-203, a private senator's bill that was widely dismissed by animal protection groups and strongly opposed by the vast majority of Canadians for its failure to increase conviction rates.

Our current federal legislation is so riddled with inadequacies and loopholes that less than 1% of complaints about cruelty to animals lead to successful convictions. Often, provincial legislation is the only tool that cruelty investigators and officers have to punish those who commit horrific acts of cruelty. It is unlikely that our federal legislation will be effectively or substantially modernized any time soon. Therefore, it is important, now more than ever, that we have strong provincial legislation. I would now like to turn it over to my colleague Kim Elmslie, who is IFAW's campaigner on animal cruelty issues.

Ms. Kim Elmslie: Thank you. To give you a greater context on how weak our federal legislation is, I'd like to provide you with an overview of a report that IFAW recently completed, titled *Falling Behind: An International Comparison of Canada's Cruelty Legislation*. In this report, we compared Canada's animal cruelty legislation to 13 other countries around the world, including Austria, Croatia, Great Britain, Germany, Malaysia, New Zealand, Norway, the Philippines, Poland, Portugal, South Africa, Switzerland and Ukraine.

The report revealed some startling facts, including: Canada is the only country that makes it virtually impossible to prosecute cases of neglect; Canada ranked at the bottom of all the comparisons we had made; Canada is alone in offering virtually no protection for wild and stray animals; Canada is the only country that does not provide protection for animals being trained to fight each other.

Effectively updating the legislation in Ontario will provide our provincial courts and police with clear means to prosecute, convict and potentially mitigate acts of unacceptable animal cruelty that can't be prosecuted under our deeply flawed federal legislation. It will also allow politicians to respond to the overwhelming majority of Ontarians, representing all political parties, who are outraged by heinous acts of animal cruelty. Finally, modern and effective legislation to protect all animals will bring Ontario up to standard on the global stage.

An example is animal fighting. Federally, it is a crime to be present at an animal fight. However, due to outdated loopholes in the legislation, the breeding, training and profiting from animal fighting are still considered legal activities. Michael Vick would not have faced charges in Canada. Within Bill 50, Ontario would close the loopholes left open by the federal level by criminalizing the training or permitting of animals to fight other animals and to own or possess equipment or structures used in animal fighting.

Of the 14 countries we surveyed in our report, Great Britain's Animal Welfare Act provides one of the most progressive stances to discourage animal fighting and the training of animals to be aggressive. Section 8 of the act—this is the UK act—makes it an offence for a person to cause an animal fight; to take money for admission; to publicize or promote; to inform another person; to be in possession of something used for an animal fight; to keep and train animals for fighting; to keep a premises for animal fighting; and to be present at an animal fight. Additionally, the act also makes it an offence to, without lawful excuse, supply a video of an animal fight, knowingly publish a video of an animal fight, knowingly show a video of an animal fight or possess a video of an animal fight. Criminalizing the training of animals to fight each other is also present in legislation in Austria, Croatia, Germany, New Zealand and Ukraine, among others.

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Most notably, IFAW supports the step forward that Bill 50 is taking for animal welfare in Ontario through the recognition that there are minimal standards of care that should be met when animals are in our care. Ontario is in good company. The trend in all 13 countries we studied within our international report was to ensure that a minimum duty of care is met for those who care for animals. Ontario would be following this global trend.

For example, in New Zealand, the Animal Welfare Act states that all those who keep or are in charge of an animal must take all steps that are reasonable to ensure the physical health and behavioural needs of animals are met both with good practice and scientific knowledge.

Globally, there is an increasing trend in the political prioritization of animal welfare. Over the last few decades, countries from all over the world have created legislation that moves animals out of the realm of property, as they are designated in Canada, and recognizes them as beings which require minimum standards of protection. The concept of animal welfare addresses the obligation we have to ensure good stewardship for the animals that we make use of.

IFAW recommends that the five freedoms of animal welfare be used as a regulatory framework for setting standards of care. The five freedoms are freedom from thirst and hunger; freedom from discomfort; freedom from pain, injury and disease; freedom to express normal behaviour; and freedom from fear and distress.

I'll now turn the presentation back over to my colleague Barb Cartwright.

Ms. Barb Cartwright: IFAW does have some concerns with the wording of Bill 50. The new section 10 has been amended to prohibit "any corporation or other entity that is not the society" from having the authority to use the name "humane society," "society for the prevention of cruelty to animals" or "SPCA," or their equivalent in any language. Whereas it is assumed that the intent of this amendment is to prevent unscrupulous individuals or organizations from falsely portraying themselves as a humane society, we also believe that it could have

unintended consequences for legitimate animal welfare and protection organizations that are not affiliated with the OSPCA. For instance, the French translation of IFAW is "Fonds international pour la protection des animaux."

IFAW is also concerned that all animals in Ontario be protected from acts of cruelty and neglect, including wildlife. Therefore, we are concerned about the ambiguity of the second paragraph of the explanatory note, which states: "The offences of causing or permitting distress to an animal do not apply in respect of native wildlife and fish in the wild." This is also found in clause 11.2(6)(a) of the bill. This would appear to afford wildlife in Ontario no protection from acts of cruelty. There are numerous examples in which those who commit acts of cruelty against wild animals go unpunished merely because of the fact that the animals they injured were wild. For example, a man in Quebec dragged a young bear from its mother, beat it, held it under water and drove over it with his Jet Ski. Although the story received international outrage, the man was never charged with cruelty. In 2006, a Newfoundland man ran over a moose with a snowmobile and killed it with an axe. When the moose had wandered onto the groomed path, the man plowed into it several times until its hind legs were broken, and then jumped on top of the animal, which struggled to escape, and killed it with an axe. Although the act was called horrendous and heinous, the man was only convicted of harassing wildlife with a snowmobile and hunting big game without a licence. He wasn't charged with animal cruelty. IFAW believes that all animals, including wildlife, must be protected from acts of cruelty.

Finally, we would like to draw your attention to the openness and ambiguity of clause 22(1)(d):

"The Lieutenant Governor in Council may make regulations...

"(d) exempting any person or class of persons from any provision of this act or of a regulation made under this act, and prescribing conditions and circumstances for any such exemption."

IFAW does not support exemptions.

Overall, IFAW supports the intention of Bill 50 in the efforts that it makes to update the Ontario SPCA Act. The act will protect animals from cruelty in Ontario and fill a void that is lacking in our federal legislation.

The Acting Chair (Mr. David Zimmer): We have about two and a half minutes per caucus, beginning with the NDP.

Ms. Cheri DiNovo: Thank you for your deputation and all the work that you do for animals. I'm certainly here to try to make this the strongest bill that we, in the NDP, can.

We've heard from other deputants as well, of course, in terms of wildlife. We've also heard from the government that the Ministry of Natural Resources is in control there. I was wondering if you think that the Ministry of Natural Resources looking after wild animals

is enough. I can assume what you're going to say, but for the record?

Ms. Barb Cartwright: For the record, no. If it's in regard to an act of animal cruelty, then that belongs in the OSPCA Act. Wildlife needs to be protected as well, because we do commit heinous acts of cruelty against wildlife.

Ms. Cheri DiNovo: The other item that we've heard, this time from those involved in agriculture—not all of those involved in agriculture, but some of them. For example, the five freedoms that you list: freedom from discomfort. Clearly, animals that are transported for the use of their meat are in discomfort. How would you respond to that? Clearly, this is a situation where with all animal agriculture, it might be argued, the animals are in discomfort.

Ms. Kim Elmslie: I think at that point you get into what is a reasonably accepted practice. There's been a lot of discussion about downed animals and that you shouldn't transport an animal if it can't stand. At that point, I think there's an understanding that there's a certain level of discomfort that some animals will feel, but we set a bar for what that is. As well, the five freedoms are recognized internationally as standards of the minimum duty of care. In the report that we did, those freedoms were recognized in most other countries, and I think it's now time for Canada to raise that level.

Ms. Cheri DiNovo: I certainly agree with you about the Canadian legislation, and I agree with you around section 6. We've heard assurances from the government that that will be amended. So thank you for your deputation.

The Acting Chair (Mr. David Zimmer): To the Liberals.

Mr. Dave Levac: Thank you very much for your deputation and your commitment to animals and to society in general. Quite frankly, I don't think there's anyone who doesn't understand that there's a synchronicity with the entire planet—with all plants, animals and whatever—so thank you for the work that you do for us.

You're aware that the exemptions exist for farm animals, wildlife and animal research, in that each of those have their own legislation and/or codes or standards of care. But under the two examples, farm animals and wildlife, the OSPCA and its charges can go beyond and charge for cruelty if those codes and standards are not met. So that means that we have a relationship that says, "If you maintain those standards and codes, that's good; we will not interfere. But if there are things that are happening beyond those codes and standards, we then can intervene." The exemption is not permanent or exact, it's above and beyond. So you're aware of that. But what I understand is, that's still not what you would like. You would like us to include it in the bill and that we go past the standards.

Ms. Kim Elmslie: Yes. Right now, the way that it's written, there does seem to be some ambiguity and lack of direction on what those exemptions would be.

Ms. Barb Cartwright: And so providing that clarity that you just described, we do support the fact that there

are current standards of care and that it is when people go beyond that that they should not be exempt from the law. The current section is not clear to us, so if it can be made clearer and provide that guidance, we would be very happy.

Mr. Dave Levac: I appreciate the feedback on that. You're aware that research animals are covered under their own act and that the SPCA cannot enter it?

Ms. Barb Cartwright: Yes.

The Acting Chair (Mr. David Zimmer): To the Conservatives.

Mr. Robert W. Runciman: Thank you for your contribution here today. Are you both volunteers for the organization or are you full-time employees?

Ms. Barb Cartwright: No, we're both staff.

Mr. Robert W. Runciman: How many full-time employees are with the organization?

Ms. Barb Cartwright: In Canada, there are 12 full-time employees; around the world, there are 300.

Mr. Robert W. Runciman: I appreciate the comments you've made and I'm sure they'll be considered by the committee when the final draft of the bill goes back to the House for third reading.

An issue which is not directly related but which can give me perhaps a broader view of your organization's approach to issues: Do you have a view on the cull of cormorants which is currently occurring in Presqu'île? Do you have any observations with respect to that?

Ms. Barb Cartwright: We are currently part of Cormorant Defenders International. We support that organization, which is working to oppose the cull because of the cruel nature of what has happened in the past with cormorant culls. Although we do not actively, on a daily basis, work on that issue, so I can't go into great detail with you, we do support that organization.

Mr. Robert W. Runciman: Just to let you know, as someone who represents the riding with the Thousand Islands, the impact of the growth of cormorants in that area over the past number of years and the depletion of the fishery, both commercial and recreational, has been dramatic. When I was growing up on the river we never saw a cormorant; now we're flooded with them. So just to have this opportunity to let you know that there is another side to that story.

Ms. Kim Elmslie: With regard to cormorants, I think part of the problem is that cormorants were controlled earlier through the use of DDT, which meant that the egg was weak and this was how we declined the cormorant. I think the problem with the cormorant cull is killing adult birds versus things like egg-shaking and egg-oiling, which can control the population in a more humane manner.

Mr. Robert W. Runciman: Not effectively, apparently. It has been tried.

The Acting Chair (Mr. David Zimmer): All right. Thank you very much for taking the time to organize your presentation and to present it to this committee.

Our next presentation is not scheduled until 11 o'clock.

Mr. Dave Levac: Recess, Mr. Chair?

The Acting Chair (Mr. David Zimmer): I expect they're coming early, so we'll recess for 10 minutes.

The committee recessed from 1021 to 1044.

LANARK LANDOWNERS ASSOCIATION

The Acting Chair (Mr. David Zimmer): Good morning, Mr. MacGregor. Have a seat. Welcome to the committee. You will have 20 minutes to do your presentation. I'll give you a five-minute warning as you get to the end of the 20. You may want to leave time for questions from members of the committee, but that's entirely up to you. I will ask you now to introduce yourself for the purposes of the Hansard record.

Mr. Hal MacGregor: Thank you very much. Good morning, ladies and gentlemen, members of the provincial Parliament of Ontario. It's indeed a great honour to be here, and I'm doubly honoured today to be representing the Lanark Landowners Association. My name is Hal MacGregor, and I have a small farm in Montague township, where I raise Highland cattle, goats, meat rabbits, huskies and maybe a few other things. Is there anyone here who would want me to give a bit about my background?

The Acting Chair (Mr. David Zimmer): As you see fit. Whatever you would like to tell us, the time is yours.

Mr. Hal MacGregor: I'm a 37-year veteran of the public service of Canada. I grew up in the air force. I was in the air cadets at 14, in the air force reserve at 15, in the militia at 16, in the regular air force at 17, and I was an officer in the Canadian Coast Guard at 26. I rose to the rank in the DSS of chief of electronic inspection over at Place du Portage. I retired at 55 and bought a small farm in Montague. Are there any questions? Okay.

Greetings from Lanark county. You no doubt have heard of the Lanark phenomenon. When rural people in my part of Ontario had enough browbeating from over-regulation and unrealistic government inspections, they gathered together for protection. The Lanark Landowners Association was born. When sawmills, bakeries, egg producers, small meat packers and family farms were threatened, the LLA, and only the LLA, came to the rescue. The situation in Lanark county was repeated in many other parts of Ontario, so now there are over 20 regional landowner associations formed under the umbrella of the Ontario Landowners' Association, 15,000 strong.

Why has it become necessary for rural Ontarians to band together for their own protection? There is something really wrong when the very people who have traditionally been the strongest supporters of good, honest, open government are up in arms. Sometimes it appears that the Ontario government has declared war on rural Ontario.

Canada is routinely condemned around the world for its unrealistic domestic agricultural policies. Government programs, even programs that are based on good intentions, have often gone berserk. With 80 million people

starving to death, and one third of mankind malnourished, 1,200 people a year leave farms in Ontario.

My own experience: When an-out-of control OSPCA enforcement officer tried to seize all my animals without warrants or proper cause, I was in danger of losing my farm. When 50 LLA people and the media gathered in my front driveway, the OSPCA didn't show up. At the hearing, the OSPCA lawyer said they never intended to take my animals; it was simply a matter of a lack of communication. The animal review board ruled in my favour. That OSPCA officer was told there was nothing wrong with my animals or with the owner. His supervisor in Toronto, Martin Cole, if you remember, soon resigned. A year later, the OSPCA in Brockville complained that they should have been allowed to take my animals, contradicting the OSPCA lawyer.

Let me ask you: Why is it that a real police officer must advise a suspect of his or her rights, but OSPCA enforcement officers, with only five days' training, and who often brag about their police powers, have no such obligation? The powers invested in the OSPCA by this proposed legislation resemble those accorded to the Geheime Staatspolizei by Hitler. Simply put, our Ontario government has lost sight of its mandate. It has over-regulated every area of rural life to the point where we in the country feel more like concentration camp inmates than citizens of a free country. We have become targets of overzealous bureaucrats in a plethora of ministries with quotas and objectives that resemble an insane seek-and-destroy war game.

For example, when the incompetent and criminal acts of two public servants in Walkerton led to several deaths and a provincial inquiry, no blame whatsoever was attributed to any farmers anywhere in the Walkerton report. Nevertheless, Bill 43, the Clean Water Act, was subsequently passed, which created a new level of bureaucracy that unfairly targets farmers and property owners. That act is nothing more than a smokescreen for illegal, wholesale confiscation of private property without compensation from cover to cover; compensation is not in the Clean Water Act.

Group psychological testing and history have universally and consistently proven that when any group of people is given unfettered control over any other group, abuses will follow. In Ontario, those who were elected to high office to serve those who put them in power have turned to widespread abuses through the very institutions of good government. No matter what your intentions, you will unleash another monster on the populace if you fail to incorporate proper checks and balances in your myriad of provincial ministries and non-government organizations with police powers.

1050

The only question is: How far will these abuses go? History has proven that they will go the limit: from horrific religious persecutions to man-made starvation, for example, in Ukraine and elsewhere; to racial holocausts in Europe, Asia, Africa and Columbian America; to the impending end of family farming in North America.

Article 8 of the Canadian Charter of Rights and Freedoms states that every Canadian “has the right to be secure against unreasonable search or seizure.” Our inherited British legal system has historically interpreted that right as a requirement for a proper warrant before any search of private property. If you allow this sort of legislation, you will have stripped away a basic freedom of legal protection that Ontarians have taken for granted for generations. It will be challenged in court, and every democrat on the planet will ridicule you. You will have to contend with confrontations that will certainly increase in frequency and tone.

I have attached a second page, which I wasn't intending to read. I have tabled that so you can read it at your leisure. Are there any questions?

The Acting Chair (Mr. David Zimmer): All right, well, we have about four minutes per caucus. This round begins with the Liberal caucus.

Mr. Dave Levac: Thank you, Mr. MacGregor, for your presentation and for being here today. You indicated that you're speaking on behalf of the Lanark Landowners Association. Do you hold a position with them or—

Mr. Hal MacGregor: I'm a director of the Lanark Landowners Association.

Mr. Dave Levac: One of the directors?

Mr. Hal MacGregor: Yes.

Mr. Dave Levac: Okay, thank you.

In terms of some of your assertions in comparisons that you're making, it is your belief, then, that with passage of this bill, the predictions that you're making will come true regarding Ontario in comparison to Germany, Ukraine and other countries?

Mr. Hal MacGregor: Yes, let me explain that, please. Some of the OSPCA enforcement officers who are directly controlled from Newmarket habitually exceed their authority. For instance, in my area of the country, there's an enforcement officer who delights in picking on old women and widows. He has gone into their houses, taken pictures and threatened them, without warrants. If they get the legal basis to go in without a warrant, the next step would be to smash furniture. I guarantee you that's what's going to happen.

Mr. Dave Levac: And you're aware that presently, under the bill we're modifying, warrantless entry already exists?

Mr. Hal MacGregor: Yes, if they can see it from the highway. That's in section 12 of the OSPCA Act. If they cannot see it from the highway, they have to get a warrant, and they don't often do that.

Mr. Dave Levac: Correct. And if they have permission from the owner, they're allowed to go in.

Mr. Hal MacGregor: Or if they bully her and she doesn't know what her rights are because they don't tell her.

Mr. Dave Levac: So the assertion is that this bill would make it even more strenuous?

Mr. Hal MacGregor: That's right.

Mr. Dave Levac: In regard to the powers that exist for warrantless entry, CAS has that power, OSPCA has

that power and the police have that power. You're indicating that the concern you're voicing is that it shouldn't be happening at all?

Mr. Hal MacGregor: I'm asserting that it's being abused already and that it will be abused more in the future if they get this legal protection. They will go the step further; they will start smashing furniture and wrecking people's lives.

Mr. Dave Levac: And you're aware that the exemptions in this particular bill, with modification, indicate that farm animals, wildlife and research animals are exempt from the bill. The only time farm animals and/or wildlife can be accompanied by the OSPCA would be if this present standard of practice or the codes that are in existence in those two areas are breached; and if the result of cruelty is seen on the animal, the only time the OSPCA will act is if those codes are not met.

Mr. Hal MacGregor: My concern is that under the present system, there's a lack of training. A lot of the OSPCA officers make up the rules as they go along. I had been advised in the past when I had wild boars that I could not feed them day-old vegetables from Quattrochi's which had never been touched by human hands. The guy said that I needed a licence from the Canadian Food Inspection Agency. When I called the Canadian Food Inspection Agency, he said that that was crap; that was not true. That's just an example. But when they tell you to your face and they intimidate you, and they bring police and other vets in and they don't even have the decency to introduce them to you—you don't know who they are or who sent them—you're scared.

Mr. Dave Levac: Okay. Do I have enough time for one more, Mr. Chairman?

The Acting Chair (Mr. David Zimmer): A short question.

Mr. Dave Levac: The OSPCA officer in your experience: You indicated that his supervisor was a Toronto officer, an inspector?

Mr. Hal MacGregor: Martin Cole.

Mr. Dave Levac: You indicated that he resigned. Was it specifically for that reason that you're asserting?

Mr. Hal MacGregor: I don't know; he never told me. I met him and shook hands with him. He's an Englishman.

Mr. Dave Levac: We're not sure whether or not they're connected?

Mr. Hal MacGregor: I'm not sure, no.

Mr. Dave Levac: His supervision—I don't know the geographic area, though. In terms of where you live, the officer might have a different inspector who's responsible, whom that officer answers to. Do you know anything about them?

Mr. Hal MacGregor: No, he was his supervisor, because he showed up at my animal control review board hearing. That's where I met him and shook hands with him.

The Acting Chair (Mr. David Zimmer): On that note, we'll move to the Conservatives.

Mr. Robert W. Runciman: Thank you for being here. I appreciate your contribution to the committee's proceedings. Just to let you know, my party shares your concern with respect to warrantless entry. We have discussed that briefly this morning, and I know the government representatives have tried to allay some of those concerns, as have some representatives of the OSPCA and the humane society.

My concern with respect to this, knowing some of the history and some of the incidents that have occurred over the years in rural Ontario with inspectors who have—and you've given us a personal example, where the review panel supported you in terms of the actions. I'm not sure how widespread that is. Some of it is anecdotal and perhaps not as accurate as it should be, but I think that the concerns are genuine and in many respects legitimate.

I know we heard the comment this morning about the broadening of these powers, from "observation"—the right to enter if you see an animal in distress, for example—versus, using the term that was used here earlier, "reasonable grounds." I guess "reasonable grounds" would be open to pretty broad interpretation in and of itself. My view is, whether it's done through regulation—which is always somewhat concerning, because the Legislature has really no input into the development of regulations. But there should be some very clear limitation in terms of how—because the government is not going to poll us; I don't think that's going to happen. But perhaps we can persuade them to at least clearly indicate how one would define "reasonable grounds," because I think at least the potential is there for abuse.

Broadly speaking, most people with the OSPCA and humane societies are trying to do a good job and are very conscientious about the concerns of rural Ontarians. At the same time, we have to ensure that the opportunities to abuse and to cause further distress in rural Ontario—it's a tough row you have to hoe, but it's an important one for the future of this province. I agree with you that over the past few years in terms of the legislation that we've seen come down the pipe, a lot of it doesn't seem to take into consideration the views, concerns and considerations of folks living in rural parts of this province. So thank you again for your contribution.

Mr. Hal MacGregor: Thank you very much.

One concern I've tried to put across here is the Canadian equivalent to the Miranda law, where a suspect has to be advised of their rights. I believe that in the future—hopefully in the near future—a case will come to court where a lawyer will pick up on that, they'll use that as a defence, and the judge will side with them. I believe that if a person is a suspect in a crime, or even just a civil crime—whatever—he should be advised of his rights. Of all the horror stories that we get in the LLA, we've never heard of a rural person being advised of their rights by an OSPCA officer. It's just not in their vocabulary, and that's wrong.

The Acting Chair (Mr. David Zimmer): On that note, we'll move to the NDP. Ms. DiNovo.

Ms. Cheri DiNovo: Thank you for deputing today. We've heard the contents of your deputation before; it's not new to us in the NDP.

I wanted to ask you some questions about the checks and balances on the OSPCA. It's my understanding that agents are supposed to identify themselves and also let you know of your rights, that you have a right to appeal to the animal review board, for example. In your experience, that's not happening?

Mr. Hal MacGregor: When I was charged, the officer did give me my right to appeal to the animal review board. I didn't know that. I wasn't familiar with the OSPCA Act. He also gave me a copy of the OSPCA Act, and I believe that was the result of pressure from his boss, whom I had talked to before on the phone—Martin Cole. I had talked to him on several occasions. I even sent him pictures of my dog pens; I had cleaned all of the feces off and they were spotlessly clean. So I was familiar with his boss. The first reason I went to his boss was because he ran over my dog. He ran over the dog and he didn't even stop to see if he hurt it. These are people who are supposed to protect animals? This dog was blind, by the way.

Ms. Cheri DiNovo: Unlike other provinces, for example, we have the animal review board and then, one up from that, the court system itself. In your understanding, that's not enough to act as checks and balances upon overzealous inspectors from the OSPCA?

Mr. Hal MacGregor: No. I know of a case now where there's an old lady who keeps chickens in her house. According to the OSPCA, that's a no-no. They've taken her to court once and lost. They're taking her to court again, for the same cause. That's ridiculous. Once they lose, they should be told to quit, to leave her alone. I don't even know the lady, I don't know her name, but the thing is, I was told about this by our people, and that's wrong.

The Acting Chair (Mr. David Zimmer): Thank you very much for attending before the committee and organizing your presentation.

Mr. Hal MacGregor: Thank you. Does anybody want this spare copy?

The Acting Chair (Mr. David Zimmer): Thank you very much again.

Mr. Hal MacGregor: Thank you very much. It's been an honour.

Mr. Dave Levac: Recess?

The Acting Chair (Mr. David Zimmer): Are we off Hansard? We'll recess for 20 minutes or at the call of the Chair.

I'm sorry. The clerk has suggested 10 minutes to see if our next presenter appears.

The committee recessed from 1103 to 1115.

ONTARIO LANDOWNERS' ASSOCIATION

The Acting Chair (Mr. David Zimmer): The 11:20 slot will be taken by the 11:40 slot, the Ontario Landowners' Association, Jack MacLaren. You'll have

20 minutes for your presentation. I'll give you a five minute heads-up as you approach the end of your time. You may or may not want to leave time at the end for questions from the committee, but that's your decision. If you would introduce yourself for the Hansard record, you can begin.

Mr. Jack MacLaren: I will be briefer than the 20 minutes. My name is Jack MacLaren. I'm president of the Ontario Landowners' Association. I would like to thank the committee for giving me this opportunity to speak to you because we have some concerns about Bill 50. Our concerns are primarily about the lack of accountability provided for in the bill.

It is our position that there should be no warrantless entry. That is a huge infringement of property rights and a disregard for the rights of landowners and business people.

There should be no entry without the informed consent of the landowner or the business owner. Again, this is a huge infringement of and disregard for private property ownership and private business stewardship.

It is not acceptable that the OSPCA should have more powers than the OPP, who are required to have the permission of the landowner or the business owner to enter without warrant unless there is a life-threatening situation.

The landowner or the business owner must have the right to have his own veterinarian's assessment of the animal's state of health, and no removal of the animal can take place without his veterinarian's consent. We feel that this is just a matter of regard, again, for private property ownership, animal ownership and business stewardship.

All fee schedules for boarding, feed and health care must be reviewed and approved by the peer review committee. We recommend that there be a peer review committee created. The members of this peer review committee would be selected by established private sector animal industry organizations.

An appeal process, which is lacking, must be added to Bill 50. The appeal process must be made available through the creation of an OSPCA appeal board. The majority of the members of the OSPCA appeal board will be private sector animal industry representatives. All selected members of the board will be approved by the peer review committee.

That is my presentation, Mr. Chair.

The Acting Chair (Mr. David Zimmer): We have about five minutes per caucus, beginning with the Conservatives.

Mr. Robert W. Runciman: Thanks very much, Mr. MacLaren. We appreciate you being here today. We've had a couple of other individuals appear this morning, one from the Glengarry Landowners' Association, and the director of the Lanark Landowners Association as well. I appreciate the way you've condensed the concerns here and provided them to the committee.

I am a substitute today, so I'm not sure what the position will be at the end of the day in terms of amendments

put forward by the official opposition, but I'm certainly going to encourage my colleagues to consider amendments dealing with this warrantless entry issue. I share the concerns that you and your organization have related to this, and I know that there are widespread concerns in rural Ontario with respect to providing the OSPCA with greater powers of entry onto private property. I know that there have been situations that have cropped up in the past which I think have perhaps created this wariness about expanded powers.

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I have a lot of respect—I don't want to leave anyone with the impression that I'm not a supporter of the OSPCA. As I said earlier, my wife and I support the OSPCA financially and the Toronto Humane Society. We care very much about the welfare of animals in this province. But at the same time, overzealous inspectors can create problems, and the principle of warrantless entry bothers me, as a Conservative, significantly. I think we have to move very cautiously in this area, and expanding these powers is something that should be a concern to every legislator. We have to be very clear with respect to how you move on these issues.

Jack, I'm just wondering if you have any examples that are not anecdotal that you can relate to us, that you are personally aware of, where perhaps in the past actions have been undertaken by inspectors that have created this extensive concern in rural Ontario.

Mr. Jack MacLaren: I can give you one example, Mr. Runciman. Tomorrow a group of us from the Ontario Landowners' Association are going to Manitoulin Island to meet with the Manitoulin landowners' association—

The Acting Chair (Mr. David Zimmer): I'm sorry, I didn't hear what you said.

Mr. Jack MacLaren: Tomorrow a number of the members of the Ontario Landowners' Association are going to Manitoulin Island—

The Acting Chair (Mr. David Zimmer): Oh, Manitoulin. Thank you.

Mr. Jack MacLaren:—to meet with the Manitoulin Island Landowners' Association. There is a man there named David Pryor who has had, over the past two years, some unfortunate meetings with the OSPCA. He's a farmer. He has horses, and it would appear that things have gone a little bit awry, I would say—a little bit of overzealous enforcement of regulations.

He's on 400 acres. He has these purebred horses that he breeds. They are high-value horses, \$5,000 to \$8,000-horses. It's a rough-land farm. The horses are out in the wild, and they can thrive and survive and do very well in that environment. Not all horses are in groomed stables that have polished fronts and flowers in front of the barn. So it would be a rougher type of operation. There'd be burrs in the tails of the horses, which were an exception mentioned by OSPCA enforcement people, cracked hooves, which are normal health problems that can be fixed and will be fixed, and those things occur. Those are natural things. Animals have problems. They're looked after.

His horses have been taken and he's been charged etc. I was reading on the CanLII website one of the charges that said they took 18 of his horses—three of them were stallions. They're going to return his stallions castrated, and one of them, they believe, should be euthanized because it's a high-spirited horse. Any good horseman likes a high-spirited horse. I would suspect that what we have here is a person who's not capable of managing a high-spirited horse, which does not have anything to do with being inhumane or abusive or anything like that at all. It's just a challenge for a horseman, and a good horseman likes that challenge.

That is an example. We're going to meet with David Pryor and we're going to see if we can help him, as an organization, to try to get things back on the right and true rails of proper animal care, and a proper understanding by all parties of what's going on on his farm.

I would like to say that the Ontario Landowners' Association supports the intent of the OSPCA Act that animals should be cared for in a humane and respectful manner. I would like to say that, as a farmer myself—I have animals; I have cattle—I view the ownership of animals as a responsibility to be taken very seriously, and that I must be a good steward of animal health care, shelter and feed, and that it is my responsibility to provide an environment within which these animals can thrive. Not only is that a proper and humane thing to do, but it happens to be good business. I'm trying to produce food through animal agriculture. Animals that aren't comfortable, healthy, well-fed and looked after in every regard, including veterinary and health care, where required, are not profitable. So it's bad business to abuse animals. Not only is it ethically and morally wrong, it is bad business, so there's no incentive to be bad or inhumane to animals.

We support the intent of the act. We feel the act has been negligent in one regard: that is, to recognize good stewards of animals—that that fact is not recognized. I and the majority of farmers who own animals take great pride in being good stewards of our animals, in taking care of them, providing an environment in which they can thrive and be healthy, which might not be the picture on the cover of the magazine that people in Toronto want to see. It's rough country where my cattle are. It may be rough country where David Pryor's horses are. There are burrs, and his horses may have burrs in their tails and manes and look like a mess. That's not inhumane; that's just the way it is.

I would like to see more regard paid by the act to the good stewardship and regard for animals' health by rural people. I believe we're seeing that occasionally in some individuals; not enough regard is paid to that. We take great pride in taking care of our animals, and if I saw my neighbour abusing his animals, I'd be the first one to ask that that person be taken to task.

The Acting Chair (Mr. David Zimmer): On that note, we'll move to the NDP.

Ms. Cheri DiNovo: Thank you for deputing before us. As you've heard from Mr. Runciman, we've heard some

of this before, and your concerns are not new to this committee, so thank you again for bringing them forward.

You cite warrantless entry. This has been something that's been ongoing, of course, already; the OSPCA already has that ability. You've mentioned here a life-threatening situation. Presumably, the warrantless entry for the OSPCA is also entered into with the same understanding, that it's a life-threatening situation for the animal as well. "Life-threatening" might not be something you just see; you could hear it, let's say. So that's the intent of the act. I just wanted to get your reaction to that, because you obviously feel that this hasn't been happening, that they've been using warrantless entry already with too much zeal.

Mr. Jack MacLaren: Yes. I'm not saying that there should not be an allowance for warrantless entry where it's warranted. If there's very good reason to believe that animals are truly being abused, and that something needs to be done immediately because tomorrow would be too late because the animal might suffer or die—in the case of a human crime, if somebody was stabbing or doing something terrible that you couldn't fix tomorrow and need to fix today, the policeman can go in and fix that problem. A parallel situation with regard to animal welfare, I would say, I accept.

Ms. Cheri DiNovo: So there would be some circumstances—

Mr. Jack MacLaren: But if somebody sees an animal that's lame and reports it, and the OSPCA goes in with warrantless entry, I object to that. We have animals on our farm that are lame, and we take care of that. We either call the vet—and I know how to do some of it myself—or it may be that it's a pulled muscle and would take some time to cure, like a human being. Because the animal is lame doesn't necessarily indicate abuse. That's not a necessary reason for a warrantless entry. Permission of the landowner should be asked for, and most often, the landowner or the businessman would say, "Come in," or ask, "Why do you want to come on my property?" They might say, "We've heard you have an animal with a sore foot or one that's lame. We would like to know about that." That could be discussed, and if it's then necessary to go and see it, that could be done.

Ms. Cheri DiNovo: So would you say, then, that there are some instances where warrantless entry would be all right on behalf of the OSPCA? I'm just asking because you first said that there should be no warrantless entry, and the concern on their part is of course that there are instances where, like the OPP or firefighters or any other group that's there to protect safety, they should be able to access animals.

Mr. Jack MacLaren: I guess what I'm saying is that I feel that that has been abused at this point in time, and that's pretty clear. We would like to see that practice reined in.

Ms. Cheri DiNovo: Just a question about the appeals process: When you feel they have been overzealous, right now there's the animal review board, and then if you're

not satisfied with their ruling, you can take them to court. You don't think that that's adequate?

Mr. Jack MacLaren: No. It is our opinion that it's like appealing to the people that you're appealing about, asking the people that you're complaining about to solve the problem. It needs to be a separate entity in itself, somewhat outside of the OSPCA, and I'm indicating here a representative of industry.

Ms. Cheri DiNovo: Okay. Thank you.

1130

The Acting Chair (Mr. David Zimmer): To the Liberals.

Mr. Dave Levac: Thank you very much for your presentation and the concerns that you've expressed. Quite frankly, the bullets are helpful in terms of the specific concerns that the organization has with Bill 50. It did sound, from your deputation and the two answers, that there is a reasonable amount of understanding that the OSPCA's existence is needed and that it is supported, except that there is some tweaking and reining in that's required of some of the things that have been happening that would make it even better. Is that a fair assumption to make?

Mr. Jack MacLaren: It is. I would suggest that it wouldn't take major tweaking to indicate to certain overzealous individuals that they need to be a little more reasonable. Actually, "reasonable" is a really good word. I'd like to see reason and common sense put in place. Occasionally, people that are zealous about doing a great job maybe just get a little carried away.

Mr. Dave Levac: Having said that, you are aware that the Animal Care Review Board has overturned some of the OSPCA findings? There haven't been as many as most people think. Because of the 16,800 different complaints, it kind of whittles down, to the Animal Care Review Board, to around 35 cases where they have, and of those cases there have been some reversals and there has been some reining in. The bill, as it's presently written, would actually improve that by ensuring that the chief inspector be given the authority to start doing some of that reining in that you're talking about. Would you support that segment of the bill if it showed that the chief inspector were to improve on that circumstance?

Mr. Jack MacLaren: I would support anything that places more accountability. Accountability is what we're looking for, and occasionally that's been missing. It may not be very much, as you've indicated—I'm not aware of all the statistics—but if it happens once, it's too often.

Mr. Dave Levac: It's once too often. I couldn't agree with you more. The warrantless entry that you talked about is already in existence. The only change that would be made in this bill to that section, (1), would stay the same, that it would be granted with permission of the owner, which speaks to your concern about the owner not having access; and (2), to determine if the previously issued compliance order was followed, because you don't call them up and say, "We're coming to see if you've improved on the things that we told you," so that you can

spend the day fixing things up and then turn around and stop with the compliance order.

I want this to be clear: This, in my opinion, isn't about trying to catch farmers doing bad things to farm animals. This is about dogfighting, cockfighting, massive abuses that are out there. I don't think anyone would be against that, to rein that in, because if you give a farmer permission who is giving someone else permission to use his or her barn to do dogfighting, I don't want them to get alerted that I'm coming in to catch them doing a dogfight, if you see what my logic is.

Mr. Jack MacLaren: I do. I agree with you completely. Obviously a cockfight is not something that anybody who is a sane or reasonable person could support, and neither do we.

Mr. Dave Levac: Okay. And the exemptions that are in the bill are for farm animals, for wildlife and for animal research. The only way in which the OSPCA should be acting is if it goes beyond the standards of care, the normal codes that are accepted in agriculture.

Mr. Jack MacLaren: Sorry, what—

Mr. Dave Levac: The exemptions; there are exemptions in the bill, and this bill, Bill 50, exempts the OSPCA in agriculture, farm animals and wildlife because other rules, laws and codes of standard of care are already in existence and accepted practices. Only if those practices that the farmers employ are beyond those accepted and normal standard of care for farm animals can the OSPCA act. So they're not supposed to act. If you're normally taking care of your dairy cows the same way, they're not going to come in and say, "You're not doing it right," unless they have grounds to believe that those standards of care are being breached.

Mr. Jack MacLaren: It has happened. I'm aware of cases where it has happened, where the cow was lame and was in front of the barn along the road—

Mr. Dave Levac: And that's the normal procedure. Then, that's where the appeal process would come in. So education and probably communication would be one of the biggest things that you see would be helpful in this particular bill—of how they respond and how they treat the public that they're dealing with in terms of the OSPCA?

Mr. Jack MacLaren: I would agree. We weren't speaking strictly to rural agriculture here. We're speaking to—when I say "business," that would be more pet shops or whatever—any kind of animal. We're aware and we have members who have had pets where things happened that were wrong: The dog was put down and then later they found out that the reason was not a sound reason. Yet that owner wasn't asked and didn't have a chance to call a veterinarian. I don't believe this act, if I understand it correctly, provides for the opportunity for the animal owner to call their veterinarian for their opinion before the OSPCA enforcement people can take action. That's not provided for. That's lack of accountability and that's here—

Mr. Dave Levac: And that's part of your presentation—

The Acting Chair (Mr. David Zimmer): And on that note, you've just hit the 20-minute mark. So thank you very much for taking the time to come before the committee and the time to organize your presentation.

CARLETON LANDOWNERS ASSOCIATION

The Acting Chair (Mr. David Zimmer): We'll move to the 11:20 slot now, the Carleton Landowners Association, Marlene Black. Ms. Black, you'll have 20 minutes for your presentation. I'll give you a five-minute warning as you're getting to the 20-minute limit. You may want to leave time at the end for questions from committee members, but that's your decision. If you would introduce yourself for the record, you can begin.

Ms. Marlene Black: Thank you very much. My name is Marlene Black. We are beef and sheep farmers in the rural area of Ottawa. I am a director of the Carleton Landowners Association, which is rural Ottawa.

Many of the issues I have—I'm focusing on two specific ones, and one is the rural farm, and you mentioned that a few minutes ago.

This is a new process for me and I am curious to see what transpires after all these presentations. I hope that this committee's mandate is more than just to listen to our concerns. I hope that you have the power to act on our recommendations, to make some real progress and to help bridge the gap between urban policies and rural realities.

I grew up in the city and moved to the country, so I've sort of had my feet in both worlds. There is a difference in the rural, and I'm going to speak to it in the first part.

The first thing I want to talk about is the word "distress" and its definition. We read the wording that "no person shall cause an animal to be in distress." Yet if you asked 100 people what the word "distress" means, you would get a different answer from all of them. So what is distress? This new bill permits an officer of the OSPCA to come on your property to seize or kill your animal if they say that it is in distress. Just having a strange person walk into a barn will cause distress to the cows. Try it, and you'll see how they run in fear.

I note that a definition of "distress" is given. It means, "The state of being in need of proper care, water, food or shelter or being injured, sick ... or suffering or being abused." "Or being abused": In other words, the other conditions are not abuse; they're just different states that an animal might be in at any given time.

I thought the meaning of OSPCA was the prevention of cruelty to animals, with a mandate to deal with cruelty and abuse. When were they given permission to remove an animal if it was thirsty or kill your pig if it was lame? I know two instances where that happened. Wendell Palmer's prize pig did not get a say in whether he stayed alive or not—no. An OSPCA officer saw him limping—probably with arthritis; he was a big, black prize boar—decided he was in distress and decided to shoot him on the spot. He was not allowed to call his vet. Seventeen times the bullets went into his brain and he still was not dead. Was that not cruelty?

I believe that a lot of the new problems we are seeing in the OSPCA have to deal with the large disconnect that now exists between our rural way of life, our heritage culture and the modern, urban way of life that sees us as perhaps a bit backward, maybe uneducated—perhaps don't really know how to deal with animals. Although we are farmers, landowners and rural business people who understand life in the country and for the most part are perfectly able to look after our animals, we've been subjected to this kind of bill, which displays a total disregard for rural life and the animals that live here, based on many of the examples I've seen.

One of my proposals that I would like to have included in the bill is that there must be officers of the OSPCA who have a rural upbringing and a demonstrated understanding of animal life in the country. These officers would attend all rural animal complaints, because many complaints are born of ignorance and a lack of understanding of rural animals. Without exception, the owner of the animal must be allowed to have his own vet attend and assess the animals in question, and no animals should be removed without his agreement.

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I would like to explain why I feel this is necessary. Several years ago, a lady from the city had moved to the country. She dropped by our farm to tell us that she had called the humane society on a farmer who lived down the road from us. His cow was lying in the middle of the field and had been for several days. She was very proud of herself since the cow was no longer there. My husband informed her that she had just had that cow killed to remove it from her vision.

The cow had recently given birth, had a pinched nerve and was recovering. The farmer was bringing it food and water, and in a short while, usually nine to 10 days, it would have been back up again. You cannot move a 1,500-pound cow that cannot walk without hurting her. This lady thought she was doing the right thing, and that is what I fear will happen if urban-schooled OSPCA officers make judgment calls on rural animals. They have no experience to draw from. Like well-meaning government officials who removed native children from their parents because they knew best, an eerily similar situation is happening in our rural province.

The rural way of life is filled with physical, mental and emotional hardships. We cope. We've done it for hundreds of years. Our animals are often working animals. One could argue that our animals are under stress when they are weaned, separated from the flock, sheared or milked for the first time. Because of the wording—I'm referring to "in distress"—it is wide open to interpretation from some inspector lacking an understanding of the rural way of life.

Our dogs stay outside and guard against wolves. They herd sheep and they keep stray dogs off our property. Our dogs eat snow because they prefer it. Our cats live in the barns, catch mice and sleep in the hay. Most of them don't get needles because you can't catch them. Our horses may wear harnesses in the work fields. They're

hot, tired and thirsty at the end of the day, but they are not abused. Our pigs like to eat their mash all mixed up with water and feed in one trough. It's called "slop," and that's how they like it and thrive. What right does an OSPCA inspector have to tell us that our pigs must have water and feed in separate bowls? But she did, and she would not let the lady explain her situation. She insisted, "Two separate bowls." This is what I mean about a lack of understanding. Our hound dogs run for miles on a track and they are pretty sore, thirsty and tired at the end of the day, but they're not abused. Our horses spend time outside, in the heat. Our horse has a lean-to over his head, and when he feels like being sheltered, he goes there. He rolls in the field when he is itchy. We don't brush him; you might find a burr. He loves people and he's 35 years old. He's not abused. Cruelty for him would be loading him up in a truck to drive him somewhere else because Bill 50 said that he is in distress. We have over 400 sheep. At any time, you might find one of them limping. We check them and treat them. It's part of the life in a rural area.

You can't call a vet for everything. Often, farmers treat their own animals. You can't call a vet because often a vet's bill costs more than the animal. You learn to look after your animals. The way the bill reads now is a definite discrimination against rural Ontario, the people who live there and the animals they care for.

That was a long one, but I wanted to give a background on some of the ways rural animals are looked after.

My second point is that the OSPCA does not have to account to anyone. If the OSPCA is on your property and wants to remove your animals, they can, according to this bill. Pleading for your animal's life is often in vain. They have powers greater than the police, and this bill says that you cannot question it.

I suppose there are other places you can go to, but the problem is that in a lot of these things, they say, "Well, there's an appeal process and you can go to court and you can do all this." All those things cost money and time, and they take the farmer away from his animals. If you want a farmer to look after his animals, you've got to keep him on the farm. You can't say, "You have to go and submit, you have to go here, you have to go to a lawyer and go to court." Who's looking after the animals? This is the dilemma that we find ourselves in. Sure, they can say these things; then we have to go and try to defend ourselves. But if there were rural people involved in the assessment or in the visit who have been on farms and who live in the country, they would be able to see that, "Wait a second. This is normal. This is not abuse." I propose that an appeal body be created to deal with people who do not agree with the decision, and never remove or destroy an animal without your veterinarian's assessment and agreement. These are pretty major things—the ability to just shoot your animal because he's deemed as being distressed.

Anything removed and tested should also be available for a second opinion.

I sum up by saying that rural landowners are not criminals, but we are continually fighting against new legislation that is trying to change us into a mould that we don't fit. We are not urban city dwellers with one dog that comes in at night. We're living in the country, alongside nature and the elements, with wolves that kill our sheep, foxes that kill our chickens, raccoons that eat our baby ducks and feed on our corn and groundhogs that dig holes in our fields so that our horses can trip and break a leg. We are struggling and surviving in conditions that many would not comprehend, so you can understand why we have a really hard time with some newly trained, fresh OSPCA face from the city who wants to take our dogs away because their water dish is empty. Thank you very much.

The Acting Chair (Mr. David Zimmer): All right. We have about two and a half minutes per caucus, and this time we start with the NDP.

Ms. Cheri DiNovo: Thank you for your heartfelt deputation. As you know, we've heard some of this before.

Just a question: Obviously, for you the exemption in the bill that talks about farm animals and regular practices with farm animals as being exempt—to your understanding, this hasn't been followed by OSPCA officers?

Ms. Marlene Black: Not with the two horse people that we know and the cow that came away from me—different instances like that. I don't have a wide understanding of all the different complaints, and certainly, like Jack, if an animal is being abused, hurt, suffering, I have no problem with that. I have a problem with somebody interpreting what their idea of distress would be. They may say that our dogs outside are in distress and that they shouldn't be outside dogs.

I do know of an example in Ottawa where that happened. A guard dog, barking, was protecting his sheep, a neighbour complained, and he was told that he had to muzzle his dog and keep him in the house. That wolf killed 30 of that person's sheep. So that was an example of someone not understanding rural farm dogs.

Ms. Cheri DiNovo: As I asked the last deputant about the animal review board: That hasn't worked for the folk whom you're speaking for?

Ms. Marlene Black: If you look at them—we're dealing with one up in Sudbury now, but this one is Wendell Palmer. I don't know if you know him. His is the limping pig that I referred to, and that was the case where it was shot without anybody being allowed to have a second opinion.

The appeal review board: I would like it to go so that there would be rural people on there who would walk in and be part of the decision-making, as opposed to people who don't understand rural animals, and then you can go to an appeal board.

We could stop it at the gate if somebody with knowledge of it could say, "No. Listen, I live on a farm. That's what they do."

Ms. Cheri DiNovo: Thank you for that feedback.

Lastly, one of the deputants suggested that the term, as you are suggesting, is too broad, in terms of distress, and suggested that the words "wilful acts" be added, which I thought was an interesting suggestion. Is that something you might support?

Ms. Marlene Black: Right. "Wilful"; that's good, because the other things aren't necessarily wilful acts. I like that. If the intent is there to hurt—sometimes a water bowl gets knocked over and the water is gone. It's not the intent of the person, you know?

Ms. Cheri DiNovo: I know exactly. Thank you.

The Acting Chair (Mr. David Zimmer): To the Liberals. Mr. Levac, about two minutes.

Mr. Dave Levac: Thanks very much for your presentation. Just maybe a few are-you-aware questions, but more importantly, taking the concerns you have about the generic belief that rural Ontario is set upon by urban Ontario in a war: I personally don't subscribe to that, but, having said that, I'm sensitive to the concerns you are expressing with regard to rules and regulations that are put upon. I just wanted to make that observation.

1150

Ms. Marlene Black: It's very widespread in the rural area. If you want more information, I think there are lots of examples of it, not with animals—

Mr. Dave Levac: I have an urban and a rural community, so I'm kept abreast of all of that.

Ms. Marlene Black: Good.

Mr. Dave Levac: You're aware, though, that euthanasia can only be done with the approval of a vet that it is the most humane course of action to take. An OSPCA officer cannot come in, pull out a rifle of any sort and shoot an animal without the approval. There can be no approval of euthanasia of an animal without a vet. You're aware of that?

Ms. Marlene Black: I believe they had their vet with Wendell Palmer there. The question I have is determining whether he was in distress. It's back to having the rural people—I deem that animal needs to be shot and I bring in someone who also thinks the same way and they agree.

Mr. Dave Levac: But the veterinarian is under oath; you realize that. A veterinarian can't euthanize a dog or any animal without fulfilling their own view that it's the most humane thing to do.

Ms. Marlene Black: I would hope that would be the case.

Mr. Dave Levac: Just another clarification: If this change to the present warrantless entry is approved and this bill passes, there's only one wording change in warrantless entries—because they already exist—and that it does not supersede any authority that a police officer has.

Ms. Marlene Black: It doesn't.

Mr. Dave Levac: No.

The Acting Chair (Mr. David Zimmer): On that note, we'll move to the Conservatives. Mr. Runciman.

Mr. Robert W. Runciman: Thank you for your contribution today. It was heartfelt, as my colleague indicated, and I think it gives us a pretty good understanding of some of the challenges that you face in rural Ontario,

in terms of understanding the different way of life. In many respects, it is so different from urban Ontario.

I know the representative of the government talks about warrantless entry like, "It's already there, what's the problem?" Of course, what's happening here is that there's a significant expansion of the ability to enter a property without a warrant.

I was interested in Mr. MacLaren's comments where he—I must put my own bias on the table here, that I agree with him in equating it with the powers of the police officers. I think it's a perilous situation where, indeed, warrantless entry is appropriate. I believe that's what Mr. MacLaren said. The question is, how do you define "perilous entry"? You get into all these issues of definition. I'd be interested in your view on that issue.

Ms. Marlene Black: On what?

Mr. Robert W. Runciman: Is there an appropriate area? Currently, you have to observe a problem, a cow limping or whatever it might be. Now, with the "reasonable suspicion"—I think they're the words I've heard used today—Mr. MacLaren used the term "perilous situation." I'm just wondering, what's your view on that?

Ms. Marlene Black: What was spoken about earlier with dogfights and chickens and all that—nobody has a problem at all if there's a report of something like that; that's obvious abuse. Nobody would object to that, I don't think.

When someone reports to the OSPCA, I'm curious about whether it's anonymous or not. I don't know the answer to that. Do they have to give their name? Or do they just drive by and say they saw a limping or hurt animal and you have to follow up? Do you know the answer to that? Do you accept anonymous calls from anybody, or do they leave their name and stuff like that?

More than the warrantless entry—I don't like that—it does bother me that we don't have people who are qualified in recognizing animals in distress in a rural situation. A lot of farming puts animals in distress when you're doing all sorts of things to them. You have protection, I guess, with the farm.

I think loading up 16 horses on a truck and waiting two months and then charging someone \$16,000 to get them back isn't right. Why is this happening—taking away our horses and paying huge sums to get them back? I know two examples of that happening. Those are the kinds of concerns that I have. Are we talking about them being abused, or were they just taken away for whatever reason—no shelter at the time—and then they have to pay this huge sum of money to get them back? That doesn't sit right with me.

The Acting Chair (Mr. David Zimmer): On that note, we're at the 20-minute mark. Thank you very much for organizing your presentation and attending before this committee today.

Mr. Dave Levac: On a point of order, Mr. Chairman: A question was asked by the deputant, and I will endeavour to get an answer for her before she leaves. It's about anonymous entry.

The Acting Chair (Mr. David Zimmer): You can speak to Mr. Levac after the hearing.

CANADIAN FEDERATION
OF HUMANE SOCIETIES

The Acting Chair (Mr. David Zimmer): The 12 o'clock slot: the Canadian Federation of Humane Societies, Shelagh MacDonald. Ms. MacDonald, you have 20 minutes for your presentation. I'll give you a five-minute heads-up when your time is about to expire. You may wish to leave time for questions from committee members, but that's your choice. If you'll identify yourself for the record, you can begin.

Ms. Shelagh MacDonald: My name is Shelagh MacDonald. I'm the program director with the Canadian Federation of Humane Societies here in Ottawa.

Good afternoon and thank you for the opportunity to speak to you today on this important issue. The Canadian Federation of Humane Societies is a national animal welfare charity that was formed in 1957. It is the only national voice for humane societies and SPCAs across Canada, and it works to promote respect and humane treatment for all animals.

I want to emphasize that the CFHS is not an animal rights organization and does not espouse an animal rights philosophy. As an animal welfare organization, we promote the responsible and humane use of animals, reflecting the values of the majority of Canadians.

The CFHS has been heavily involved in the debate over animal cruelty amendments to the Criminal Code for the past several years, and I personally have worked extensively on this issue. It is very important to have effective animal protection laws both at the federal level and at the provincial or territorial level in order to provide options to prosecutors in cases of animal cruelty.

As you probably know, Ontario has one of the oldest animal protection acts in the country, and it is very badly in need of reform. There are serious deficiencies in the Ontario SPCA Act that prevent the SPCA from properly dealing with animal abusers. For example, there are currently no sentencing provisions except for the new section on puppy and kitten mills. This means in all other cases the only tool available to deal with animal cruelty offences is the Criminal Code. The animal cruelty section of the Criminal Code was originally enacted in 1892, and is full of loopholes that make it very difficult to prosecute certain cases. Obviously, this is one crucial reason why Ontario needs a good provincial act. Also, not all offences warrant a Criminal Code charge, so provincial charges are also necessary to address less serious cases.

I'm here to speak in support of Bill 50. It makes many necessary changes to bring Ontario's animal protection law into the 21st century and in line with most other provinces. Bill 50 also includes clauses to deal with animal fighting, something we've been calling for at the national level. There's nothing radical in this bill and nothing that will threaten any lawful uses of animals carried out according to normal practices.

I know there have been some speakers concerned about how this bill might impact various uses of animals, such as farming, hunting, zoos etc. The CFHS is very familiar with such concerns, having dealt with them at

the federal level. It is normal for people to fear change, but I hope those people can understand the need for a law that will offer significantly greater protection for animals from cruelty, abuse and serious neglect. It is important to balance this need for protection of animals with protection for farmers, hunters, anglers and others who use animals for their livelihood or recreation. I believe Bill 50 does exactly that.

The authority given to the SPCA in this bill, the definition of "distress" and the provisions for addressing animals in distress are very similar to what exists in most other provinces, and the acts in other provinces are not a threat to rural life or to agriculture, hunting, fishing, research or other lawful activities involving animals.

The CFHS does have some concerns about the exemptions in Bill 50. The definition of "distress" is: "being in need of proper care, water, food or shelter or being injured, sick or in pain or suffering or being abused or subject to undue or unnecessary hardship, privation or neglect." But this bill allows animals to be in any or all of these conditions if they are native wildlife or fish in the wild or farm animals being used according to generally accepted practices or some other class of animals living in particular prescribed circumstances yet to be determined.

1200

Although all provincial animal protection acts include similar exemptions, does it not seem inappropriate to excuse certain industries from a requirement to provide proper care for animals or even to inflict abuse on animals? With all due respect, it is a little surprising that farmers, hunters, anglers, rural folks and others are coming before you to claim that Bill 50 would threaten their activities when they are exempt from the main offence in the act, which is causing animals distress.

An additional problem with the exemptions in Bill 50 is that clause 11.2(6)(c) is completely wide open to be determined by regulations. I would like to know what the government has in mind for that section. I'm guessing this is where zoos would be addressed, as there was a lot of talk about zoos. I hope this is the case, because there certainly is an urgent and substantial need for regulations to set standards to address the many roadside zoos in Ontario that are keeping animals in horrific conditions.

The CFHS would also like to see the province prohibit the sale and keeping of exotic animals as pets. Keeping exotic animals as pets is not in the best interests of the animals and also poses public safety risks from viruses and potential attacks. Today, Ontario residents are free to keep tigers, monkeys, cougars or pythons as pets, except in some municipalities that have had the foresight to prohibit the keeping of such animals as pets. The provincial government needs to take a firm stand against the trade in exotics, and I urge you to address this in the regulations.

I would just like to explain a little bit about how SPCAs and humane societies operate across the country. Their role is to provide shelter for animals in need and try to find homes for them, to educate their community about the humane and responsible treatment of animals, and to address animal cruelty. SPCA or humane society in-

spectors are mandated as peace officers under provincial legislation to enforce animal cruelty laws. In Ontario, they simply don't have an appropriate tool to do this job.

The investigative work of SPCAs is complaints driven, meaning that they respond to concerns from the public. Certainly not all complaints that are made by the public need any further action, but it is the role of the SPCA to look into those. Ontario SPCA inspectors and agents from their branches and affiliated societies across the province conduct about 16,000 investigations per year from those complaints. Most cases are dealt with by educating owners regarding proper care. In about 2,500 cases, orders are issued requiring animal owners to take certain actions to improve the care of the animals. Charges are laid in only about 250 cases, either under the Criminal Code or the Ontario SPCA Act. These charges are brought by the crown, not by the SPCA, and are only laid in cases of serious abuse or neglect. The Ontario SPCA plays a crucial role in the province, one that they take very seriously.

I thank you for inviting me here today. I sincerely hope you will recommend that this bill go forward. There can be no question that the current OSPCA Act is completely inadequate and must be updated as soon as possible. I welcome any questions.

The Acting Chair (Mr. David Zimmer): We have about four minutes per party, beginning with the Liberals. Mr. Levac.

Mr. Dave Levac: Thank you for your presentation and support for the bill and your recommendations of some of the changes that your organization has contemplated.

I appreciate the clarity that you've brought regarding the exemptions. The standards, if they are not being met, would then require the OSPCA, under advisement, to investigate, which means that in agriculture, farm animals, wildlife—but not research animals, because they're covered under a different law altogether that prohibits the OSPCA from intervention—the OSPCA would intervene if, and only if, those standards were not being met. In other words, if you're not meeting the standards, then the OSPCA would intervene. Is that something that you can accept in terms of the exemption, as long as those standards of care are being maintained?

Ms. Shelagh MacDonald: Yes, as long as the standards of care are being maintained. I know that's how the other provinces' acts are written. When you really read the definition of "distress," it seems a bit odd that we would just make an exemption for certain activities, enabling them to cause that kind of distress. But I know that's—

Mr. Dave Levac: Earlier the warrantless entry was characterized by my friend and colleague across the table as an extreme addition to the powers of an OSPCA member. The only words that get changed are "observe" versus "reasonable grounds." The rest of the definition stays in place, and has been in place since the bill was written. Do you see that as an extreme in terms of warrant, vis-à-vis examples of why you have to observe

things to happen, if there are a lot of disasters that happen because you can't see them?

Ms. Shelagh MacDonald: Exactly. No, I don't think it's extreme at all. A good example would be how somebody might tell an SPCA inspector that somebody just put a box of kittens in the trunk of their car, so they're going to suffocate in the car. But the SPCA inspector can't see them there, so he wouldn't be able to do anything about it, as opposed to having reasonable grounds because someone had told them they should investigate that. I don't think that's unreasonable at all.

The Acting Chair (Mr. David Zimmer): Thank you. To the Conservatives.

Mr. Robert W. Runciman: I'm going to have to check Hansard. I don't recall using the word "extreme," but it's certainly a broadening.

I want to endorse your comments with respect to exotic animals. I wholeheartedly agree with you there. I think there's a situation in Rice Lake right now, where there's a carp virus which they believe was brought there by people dumping exotic fish into the lake. The virus is now killing the carp by the thousands.

I'm curious about one of the comments you make on page 3 about how any investigative work of the SPCA is complaints driven. Are you implying that there's no significant portion of SPCA work that's self-initiated? Are there statistics with respect to what you're saying here about complaints-driven investigations, because I personally don't know. Also, I'd like to hear your view with respect to one of the submitters where you referenced anonymous complaints as well.

Ms. Shelagh MacDonald: I don't know exactly the answer to the anonymous complaints, but I believe the person would have to give their name. The inspectors behind me can answer that question.

The other question was—

Mr. Robert W. Runciman: I was saying "complaints driven," that their work is complaints driven, which implies that they only respond to complaints.

Ms. Shelagh MacDonald: Right. The work of SPCAs is predominantly complaints driven as far as individual animals. They don't drive up and down the road looking for animals in distress particularly; they don't do that. But they might go to inspect a pet store, for example—so commercial uses of animals in commercial settings. They might do spot visits to a pet store or to—

Mr. Robert W. Runciman: I was thinking more of the farming side of it, because the concerns we heard this morning have been essentially from the farming community.

Ms. Shelagh MacDonald: No. An SPCA would not drive up to a farm without a reason to go to look into something there as the result of a complaint.

Mr. Robert W. Runciman: It would have to be complaint driven. Thanks.

Ms. Cheri DiNovo: Thank you very much for your deputation. You made the statement at the beginning that you're the only national voice for humane societies. We heard a deputant earlier this week who came from the Humane Society of Canada. The Humane Society of

Canada exists as well as your organization. I was wondering if you could explain that a little bit to us who are new.

Ms. Shelagh MacDonald: Sure. The Humane Society of Canada was originally a branch of the Humane Society of the United States when they came into Canada in the early 1990s. Then they became a separate organization. But they are a national advocacy group. We're the only group that works with humane societies and SPCAs. Our role as a federation is to represent the interest of humane societies and SPCAs across the country.

Ms. Cheri DiNovo: There seems to be some concern there, and you know that there is. There's sort of a turf war that we've been wending our way through on this committee. The Toronto Humane Society, for example, had some real concerns about sections of Bill 50 that I'm hoping will be addressed by the government. They've promised that they will. That was where my question was going.

One of their concerns was the lack of transparency of the OSPCA. I asked the inspectors—really, it's not their business to get involved in this but perhaps it's yours—why it is so difficult to get at the bylaws of the OSPCA. Apparently they're not available for public scrutiny, and yet it's a public charity etc.

Ms. Shelagh MacDonald: It's hard to answer that question. It's my understanding that most things like that at a charity would be public documents.

Ms. Cheri DiNovo: I would hope so, and I will ask when the person comes. There are just some concerns there.

I also asked the last deputant about the definitions in section 11, because there have been some concerns about that. One of the deputants had suggested the words

“wilful act.” You've heard from the farming community, for example, about some complainant, let's say, seeing an animal limping in the field and that initiating an investigation. “Wilful act” might address this. I don't know, so I'm asking your opinion on that.

Ms. Shelagh MacDonald: I think the definition of “distress” as it is written is excellent, and it is very, very similar to what other provinces have, so I don't see it being problematic. No animal is going to be seized because it has a sore leg and it's limping a little bit. I think an animal has to be in distress that can't be relieved in a rapid manner, and it can't be seized unless there's testimony from a veterinarian. We are talking about an animal that is clearly in a state of suffering that can't be relieved.

Ms. Cheri DiNovo: Right. Well, certainly it's our intention to strengthen this bill, not to weaken it. Thank you very much for your deputation.

Ms. Shelagh MacDonald: Thank you.

The Acting Chair (Mr. David Zimmer): Thank you very much for organizing your presentation and attending before the committee today.

That concludes the committee's sittings in Ottawa. I've got a couple of housekeeping matters here. There's lunch in the Capital Carleton Salon; that's out the door here, turn right and then turn left. It's on this floor. Checkout time at the hotel is 1 o'clock. Meet in the lobby at 1:25, and the bus driver will pick us up for our trip to Toronto.

Mr. Lou Rinaldi: Tomorrow morning at 10?

The Acting Chair (Mr. David Zimmer): It's 10 o'clock tomorrow morning in Toronto.

Thank you.

The committee adjourned at 1211.

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First Session, 39th Parliament

**Assemblée législative
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(Hansard)**

Friday 25 July 2008

**Journal
des débats
(Hansard)**

Vendredi 25 juillet 2008

**Standing Committee on
Justice Policy**

Provincial Animal
Welfare Act, 2008

**Comité permanent
de la justice**

Loi ontarienne de 2008
sur le bien-être des animaux

Chair: Lorenzo Berardinetti
Clerk: Susan Sourial

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
JUSTICE POLICYCOMITÉ PERMANENT
DE LA JUSTICE

Friday 25 July 2008

Vendredi 25 juillet 2008

*The committee met at 1003 in committee room 1.*PROVINCIAL ANIMAL
WELFARE ACT, 2008LOI ONTARIENNE DE 2008
SUR LE BIEN-ÊTRE DES ANIMAUX

Consideration of Bill 50, An Act to amend the Ontario Society for the Prevention of Cruelty to Animals Act /
Projet de loi 50, Loi modifiant la Loi sur la Société de protection des animaux de l'Ontario.

The Acting Chair (Mr. David Zimmer): Good morning, everybody. Welcome to the Friday sitting of the justice committee here at Queen's Park. Everybody's got the public agenda here. Just let me go through some of the agenda items. The 10 o'clock delegation is not here, nor is the 10:15, so we're going to move to the 10:30 delegation. But before we start, Mr. Charlton has got some updated information for members of the committee.

Mr. James Charlton: I just wanted the members of the committee to know that the animal welfare issue binder on the library intranet site—you should have had a link sent to you with that—has been updated slightly to reflect some of the foreign legislation that was mentioned during the submissions yesterday in Ottawa. That would be the animal welfare acts of the UK and of New Zealand. If you want to go to that site, it's accessible either from your computers here at Queen's Park or I believe you have terminals at your constituency offices that can access the virtual private network so you can look at it from there.

The Acting Chair (Mr. David Zimmer): Are there any other housekeeping matters before we start?

ALASTAIR STRACHAN

The Acting Chair (Mr. David Zimmer): Mr. Alastair Strachan. You can come up to the front table here. Mr. Strachan, you'll have 15 minutes for your presentation. I will give you a three-minute warning when your time is almost up. You may or may not wish to leave time within your allotted slot for questions from members of the committee, but that's your choice. If you would identify yourself for the Hansard record, then we'll start.

Mr. Alastair Strachan: I won't need 15 minutes, so you'll be happy to hear that. Good morning, and thanks

for this opportunity. I'm going to read this, if that's okay with everybody.

I'm a property owner in Ontario and have horses and dogs on my property. As a result of my knowledge of those animals, I see a few issues with Bill 50 that I expect are in common with many other people.

To begin with, a comment on the OSPCA: I've read that in 2006, most of the board of the OSPCA resigned, and there was considerable press coverage at the time pointing to internal conflicts, misuse of money and general bad governance. Some former board members called for removal of police powers from the OSPCA at that time. As your average citizen, I wonder why we are proposing to increase the police-style powers of this organization at this time, when it has these types of troubles in its recent past. In fact, I wonder why we're sitting here debating that and not whether or not the organization should continue in its current form.

Further, does this organization have a board made up of people from different backgrounds where animals are concerned, and is that board accountable both in terms of financial transparency and its actions in the field? As a legislated organization receiving taxpayers' money, it must be accountable and subject to outside scrutiny, including the freedom of information act. Some sort of review board, presumably outside the OSPCA, should be a watchdog.

A few comments on Bill 50: The phrase "no person shall cause an animal to be in distress" appears in section 11.2. "Distress" is defined further as, and includes phrases such as, "proper care" and "undue or unnecessary hardship." My question on that would be: Who is to determine what is "proper care" or "undue or unnecessary hardship"? Presumably, that's an inspector or an agent of the OSPCA.

I have a couple of examples, and I expect you've heard lots of these this week. If my Jack Russell chases the neighbour's cat, does that cause "undue hardship," and is that to the cat or the dog? Cats are good fighters. If one of my horses goes lame from stepping on a stone or running in a field, I could be charged by an inspector or, worse still, an agent. Whether or not they would do that is a practical matter. The fact is that those people are appointed by a chief inspector at that chief inspector's whim or discretion. I don't recall seeing any information that defines how those people are selected. Obviously, a horse that hurts itself is in "immediate distress," and

those words are in Bill 50, as you know. Any horse that runs on a hot day is in distress in the eyes of many animal activists, as are most people if they run on a hot day.

You are proposing to have an inspector or agent or affiliate of the OSPCA having the right to use police-type powers when that person is selected based on no known criteria. There's a lot of room for abuse here, and the poor person suffers a lot more than the rich one, because the rich one can fight back; the poor person sits on the sidelines and takes the consequences. If I am charged by that inspector or agent, they could take my horse or dog away without my having the right to an independent review by, in this case I would assume, a veterinarian. By contrast, if I get arrested by the police, my lawyer shows up immediately.

On the topic of inspectors and agents, I think it's important that these people have proper training initially and on an ongoing basis. If we're going to continue to give them police powers, they should have police-type training. They should also be subject to similar checks and balances. On the initial selection of inspectors and agents, surely these people must be measured against very specific criteria on an ongoing basis.

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Moving away from that, it appears to me that there is a bit of a conflict between this proposed Bill 50 and existing legislation regulating hunting and fishing. I'm no lawyer, but in reviewing the document, it appears that there is reference to the fact that it doesn't deal with matters that are currently legislated, like fishing and hunting. Presumably it should explicitly state somewhere that that bill, Bill 50, does not apply to current legal activities, given that both hunting and fishing cause immediate distress.

Finally, I think we need to be careful about passing legislation that in the future can be taken out of context and used by animal rights zealots to pursue their own particular goals, which may or may not include animal welfare. There are many people in the animal activist world who believe that sports involving animals often place those animals in distress. Witness recent demonstrations by activist groups in the United States at horse races, cross-country equine events, dog races etc. Providing police-type powers to these organizations without proper checks and balances is, in my opinion, inviting abuse. Thank you.

The Acting Chair (Mr. David Zimmer): Thank you very much. We have about three minutes per party. We'll start this round with the Conservatives.

Mr. Garfield Dunlop: Thank you very much, Mr. Strachan, for being here this morning. I don't want to ask a lot of questions because I think, quite frankly, we've heard a number of deputations now that are very, very similar to yours, and of course we got a lot of e-mails. So we've got some tough decisions on this committee with amendments etc. as we go down the next couple of weeks. So unless my colleague has some questions at this point—

Interjection.

The Acting Chair (Mr. David Zimmer): All right. We'll move to the NDP.

Mr. Peter Kormos: Thank you, sir. You're not much a fan of the OSPCA?

Mr. Alastair Strachan: That's apparent, I would think; yes.

Mr. Peter Kormos: You don't like them much at all?

Mr. Alastair Strachan: I haven't had much to do with them. But as a response to Bill 50, I've done a little research just on Google and looking around. It appears to me that there are some serious issues with that organization.

Mr. Peter Kormos: What would your druthers be in terms of policing around animal welfare? What would you rather have? What do you envision as a preferable model?

Mr. Alastair Strachan: I don't have an answer for that. I guess that's what you guys are wrestling with, but certainly change has to take place. When you have a legislated organization that receives a pile of taxpayers' money and you have something as significant as the types of resignations that took place and the other things you've heard over the last week, and I've read a few of those on that table over there, debating whether or not to further the power of that organization seems to me to be somewhat—the horse has bolted at this point. It might be time to take a step back and review the organization itself. That really would be my take on it.

Mr. Peter Kormos: Thank you, sir.

The Acting Chair (Mr. David Zimmer): We'll move to the Liberals.

Mr. Dave Levac: Thank you for your deputation and the concerns that you've raised with the process.

We heard from other deputants about this resignation issue and, with the permission of the opposition in one of the days, sought some background information. I'd like to share that with you so that you can see factually what happened in the resignation situation.

In approximately March 2006, eight OSPCA board members resigned. That left the board with a sitting membership of 10. Mixed reasons were given for the resignations, including objections to the OSPCA providing law enforcement without government funding for those operations—so that was more about the government than it was about their own handling—and the concerns regarding certain OSPCA budgeting practices. Previously, two board members had resigned for unrelated reasons.

At the time, the full OSPCA board was supposed to be 30 members: 12 branch representatives, 12 affiliate representatives and six members at large. But only 20 were elected during the 2005 annual general meeting. There were a lot of numbers bandied around that were inaccurate, so we wanted to make sure there was some clarity on that particular reason. In the 2006 annual general meeting, a bylaw was passed to change the make-up of the board to 10 affiliate representatives and two branch representatives. So there was a clarity brought to that issue that it was used previously—and I would say,

sir, not by you, to be fair, but other people had indicated that it was such a mess that the entire board resigned en masse, which brought disfavour to the OSPCA, which we showed was clearly not the case. So that's just a clarity issue for you.

As far as the special constables are concerned, special constables in the police services have four weeks of training as well. We're bumping that up from two weeks to four weeks, with ongoing professional training. The chief inspector will be receiving powers to make sure that those training processes take place to improve what you're talking about, just by way of information.

The Acting Chair (Mr. David Zimmer): Thank you for taking the time to appear before the committee and organizing your presentation.

Mr. Peter Kormos: I venture Mr. Levac's comments didn't change your mind much, did they?

Mr. Alastair Strachan: I don't know. Probably not, but I guess we'll see.

CORMORANT DEFENDERS INTERNATIONAL

The Acting Chair (Mr. David Zimmer): We're going to move to the 11 o'clock slot: Cormorant Defenders International, Julie Woodyer. Ms. Woodyer, you'll have 15 minutes for your presentation; I'll give you a three-minute warning as you get to the end of the 15. You may or may not want to leave time for questions from members of the committee, but that's your choice, as you see fit. Please introduce yourself for the Hansard record, and then you can begin.

Ms. Julie Woodyer: I'd like to thank you very much for the opportunity to address this bill. I'm very sorry about my rough voice.

My name is Julie Woodyer. I represent Cormorant Defenders International, or CDI. CDI is a collective of animal protection and environmental organizations that represent roughly 15 million people in Canada and the United States. In addition to my work with CDI, I also did investigations of cruelty to animals in my past, and I've also inspected captive animal displays right across the country.

First, I'd like to say that I am fully in support of Bill 50 and I have the greatest confidence that the OSPCA will be able to conduct themselves in a fashion that is not only appropriate, but utilizing common sense and not running off on tangents. I do have a few comments regarding some concerns that I have within the wording, but I want to be very clear that I think that this bill is fabulous and is going to provide additional protection for animals in the province, so I am fully in support. But I'm going to focus my comments on what my concerns are related to.

The first one which is a particular concern to CDI members is clause 11.2(6)(a), which exempts native wildlife and fish in the wild. We feel that any provincial animal legislation that protects animals should be inclusive of wildlife, as well as animals in captivity, regardless of the industry.

An example I'm going to give you about why that's important, particularly on the CDI matter—you may be aware that there's a lot of misinformation about cormorants and there are a lot of people who blame them for the decline in the fish stocks, despite the fact that the science doesn't show that. Unfortunately, this misinformation is out there and we're attempting to correct that, but there have been a few extremists who have gone out into the bird colonies and literally beaten the birds to death, left some of them there to die, injured and suffering for days. Certainly, any reasonable person could understand that this is a clear act of cruelty and it must be covered under provincial cruelty legislation. This is just one example of where wildlife has cruelty inflicted on it. I'm aware of a number of other incidents where animals are left to starve in traps when they're trapped or they're killed in horrific ways because people consider them pests. Obviously, these are extreme cases and the types of cases that this legislation is meant to capture.

We also feel that it's a shortfall to exempt complete classes of people, as is outlined in clause 22(1)(d). I think that this opens up a loophole for disreputable people to find ways to exempt themselves from this law. I'm going to give you an example of this. For instance, if individuals with a permit to hunt were exempted from the legislation, a disreputable person who wasn't engaging in legal hunting but, in fact, let's say, beat an animal to death with a shovel, could possibly be exempted simply because they have a permit for another purpose. So I think that's a loophole in exempting complete classes of people.

1020

Obviously activities like hunting that are legal under other pieces of legislation would not be at risk of charges under this act, so making this act more rather than less inclusive I think poses no risk to those individuals but keeps people from finding loopholes in the legislation.

In a similar fashion, I'm concerned about exempting classes of animals or particular activities, as is outlined in section 22(1)(c). You may be aware that some zoos in Canada conduct research on captive animals. For instance, if there were an exemption given to all facilities that conduct research on animals, this would allow an exemption for an entire zoo because of one small research project and thereby leave yet another loophole. The roadside zoos in Ontario, which I'm very familiar with, have been known to embark on very crafty ways to keep the Ontario SPCA from inspecting their premises. If a case came up where research facilities were exempted, I would bet that you'd see a lot of roadside zoo owners embarking on small research projects to ensure that they could skirt the law. These are just a couple of examples of how exempting entire classes of people, animals or activities could allow opportunities for people to get out from under this particular piece of legislation.

I also think it's essential that any standards require all individuals who are keeping captive animals to have a permit. This is important because there's a growing number of wild animals being kept in this province as

pets. These include animals like tigers, primates, venomous snakes and other dangerous animals, as well as those that are very difficult to care for and whose needs are difficult to meet. Also, there have recently been a number of roadside zoo owners that have closed their facilities to the public, and thereby don't qualify as a zoo but continue to have the animals on the premises and rent those animals out for private events. If the standards for zoos, for instance, were only applicable to zoos, I would expect you're going to see a lot of roadside zoos actually just closing their doors but continuing to maintain their animal collections and renting them out in various ways.

I also think it's critical that all zoos, both CAZA-accredited and non-accredited, be subject to this provincial law should it pass. I don't think it would be appropriate, and in fact it probably wouldn't hold up in a courtroom, for a facility to be exempt from a provincial law simply because it belongs to a private organization like CAZA. I would also submit that any zoos that actually do meet the CAZA guidelines should not be concerned about being subject to this law because they've already surpassed any provincial standards that would be passed.

Finally, I would submit that any regulations being developed under this legislation be inclusive of the five freedoms of animal welfare which have been used in UK legislation. Those are: freedom from hunger and thirst; freedom from discomfort; freedom from pain, injury and disease; freedom to express normal behaviour; and freedom from fear and distress.

I feel that this model would ensure that animals are treated in a humane fashion, and it would be consistent with the values of Ontario residents.

Again, I just want to be very clear that I fully support the bill, and I hope that any potential loopholes could be tightened up or even closed and that regulations would follow quickly if the bill is passed.

The Acting Chair (Mr. David Zimmer): Thank you. We have about three minutes per party, starting with the NDP. Mr. Kormos.

Mr. Peter Kormos: Thank you, Ms. Woodyer. Why should we allow private zoos at all? We're no longer in that colonial period when the world was very inaccessible and exotic animals were being displayed to the curious. The function of zoos now is less to put animals on display; the legitimate function, it seems to me, is more to protect or preserve breeds of animals that are at risk internationally. So, in a province like Ontario, why should any private, for-profit operator—for-profit, I think, is relevant because you could have non-profit organizations involved in animal preservation. Why should we allow anything other than domesticated animals to be put on display? I don't think the Riverdale zoo, the petting zoo of cows and pigs and sheep, causes me any great offence; those animals are accustomed to being in contact with humans. The fact is that it's stressful for any animal that is inherently a wild animal to be in a contained area. Why should we have private

zoos? Why should Marineland be allowed to have those animals at all?

Ms. Julie Woodyer: Marineland is a tricky question.

Mr. Peter Kormos: Well, why can't they—

Ms. Julie Woodyer: I don't disagree with you. The tricky part comes in the fact that a number of these zoos call themselves sanctuaries. They do set up not-for-profits. It's very hard to distinguish between what is legitimate and what is not legitimate, if we're going to accept that zoos are a common practice in the province. I think, to date, there's not a movement to just say people are going to close all zoos.

My personal position and what the members of the organizations that I represent believe is that if the biological and behavioural needs of the animals can be met in the captive setting and thereby those animals are not subject to distress and are free from the problems that I described, that wouldn't be considered cruel activity.

Mr. Peter Kormos: How does keeping a whale on display and teaching it cheap carnival tricks—or a dolphin or seals—meet that standard?

Ms. Julie Woodyer: I've done a lot of work with whales and dolphins, and I would absolutely agree with you that there is no possible way to create a captive environment that can meet all of the biological and behavioural needs of whales and dolphins. I think that the bill is specifically related to dealing with animal cruelty in the province.

Mr. Peter Kormos: It was so sad. I was so excited because I thought this bill was going to address private zoos, and it didn't. It really was a sad, sad betrayal of all those people who had rallied around the member for Willowdale's private zoo regulation bill.

Ms. Julie Woodyer: Certainly, I was under the same impression and I was surprised not to really see zoos mentioned anywhere.

Mr. Peter Kormos: You feel as betrayed as I do.

Ms. Julie Woodyer: Somewhat, yes. I'm still encouraged that we're raising the bar for animals—

Mr. Peter Kormos: The member for Willowdale was doing the right thing.

Ms. Julie Woodyer: Yes.

Mr. Peter Kormos: He was a hero.

Ms. Julie Woodyer: I definitely agree, and I do think that the regulations are critical.

Interjection.

The Acting Chair (Mr. David Zimmer): Order. Come on. You've got the floor.

Ms. Julie Woodyer: I think the regulations are critical in that case because this bill can raise the bar for animals, including zoo animals. But without the regulations, zoo animals will be lost.

The Acting Chair (Mr. David Zimmer): We move to the Liberal Party. Mr. Rinaldi.

Mr. Lou Rinaldi: The member for Willowdale is still a hero to us. I just want to clarify that.

Thank you very much for being here today. Obviously, we're encouraged by the number of people who

want to participate in the process. Hopefully, that's what will make the legislation better.

You expressed some concern about exemptions for some groups. I'm not sure whether you were aware that for fishing, angling and hunting, there is legislation in place right now that governs how those folks do business, the same as in the agricultural sector and the same as in the research sector. Really, all Bill 50 does is say that if those folks go beyond the boundaries, then OSPCA has the power to act. I believe that protects those people who will be carrying out that practice, if they're governed by legislation. Were you aware of that at all?

Ms. Julie Woodyer: I'm certainly aware that there are other pieces of legislation. What my concern would be is, if, when the exemption time comes, they just say, "Well, exempt everybody with this type of permit or that type of permit"—I was just using the hunting permit as an example—but then people could go out and just buy that permit and thereby exempt themselves. That would be a problem. So my concern is really the exemption of larger classes of people and the caution about how that could be done. Certainly, activities that are already legal should not be covered by this bill and, as far as I can tell, wouldn't be.

Mr. Lou Rinaldi: I'm not aware of those other exemptions you talked about, but then maybe I'm missing something. I thought those were the exemptions that we talked about and that we made it pretty clear. But if there are others there, it's something we need to take.

While I've got another minute here, talk about the group that you represent. We had a delegation yesterday from the International Fund for Animal Welfare, which supports some of the activities that you're promoting, as well, with cormorants. They support some type of control of cormorants. I say that because the member for Leeds-Grenville has the same issue in his riding that I have in my riding: large cormorant populations. They weren't there 25 years ago when I moved into the area, and they've now destroyed an enormous amount of vegetation. A couple of years ago, the Ministry of Natural Resources did an oiling process, which, by the way, Kim Elmslie from the international fund supported; yesterday she said that that was an acceptable practice—and a controlled call by MNR staff. Not only did they destroy vegetation off-site, but they actually destroyed part of the beaches that have been used by people from all over Ontario for years and years. What recommendations do you have for some of that?

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Ms. Julie Woodyer: The cormorant debate is a big one, and I won't get into it because there is no time. The bill is specifically related to cruelty, and so I would suggest that if activities were going on that caused cruelty to those birds, meaning that they were left to suffer, those situations should be dealt with by this bill. As far as animals not suffering, I don't think they're actually covered under this bill. I'd be more than happy to chat with you about it outside of this meeting, but I really want to stay focused on my comments for the bill.

The Acting Chair (Mr. David Zimmer): We move to the Conservatives.

Mrs. Christine Elliott: Thank you, Ms. Woodyer, for your presentation. I also had a question with respect to the exemptions of groups that you were speaking of as "closing the loopholes." Am I to take from that that you would remove the exemption for anglers and hunters and for normal farm practices? How exactly would you propose that that be dealt with?

Ms. Julie Woodyer: I think, as this member mentioned, those activities are already considered legal, so I don't see a need to exempt them from this law, because if they're doing something outside of the existing law, they should be covered by cruelty legislation. My greater concern is in section 22, I think it's (c) and (d), where it just sort of says, "And then we can go ahead and exempt any number of classes of animals or people." This, later, could come back to haunt us, by saying, "We've decided we're just going to exempt everybody with a permit for hunting," for instance; I'm just using that as an example because it's the only one I can think of. So I think the section 22 (c) and (d) exemptions are huge, huge loopholes, but I also think there's no need to exempt industries that are already legislated.

Mrs. Christine Elliott: Thank you. That clarifies it. I appreciate it.

The Acting Chair (Mr. David Zimmer): Thank you very much for taking the time to attend and present to this committee.

Is there anyone here for the 10:15 slot, Windsor Animal Rescue? No.

ONTARIO FARM ANIMAL COUNCIL

The Acting Chair (Mr. David Zimmer): We'll move to the 11:15 slot, Ontario Farm Animal Council, John Maaskant.

Mr. John Maaskant: And Leslie Ballentine.

The Acting Chair (Mr. David Zimmer): Yes, that's fine. You'll have, as you've heard me say, 15 minutes to present. I'll give you a three-minute warning when your time is about to expire. You may or may not want to leave time for questions from the committee members, but that's your decision. If you would introduce yourself for the Hansard record and then begin.

Mr. John Maaskant: My name is John Maaskant. I'm a chicken farmer from Huron county and chair of the Ontario Farm Animal Council.

Ms. Leslie Ballentine: I'm Leslie Ballentine. I'm the issues specialist for the Ontario Farm Animal Council.

Mr. John Maaskant: Thank you for this opportunity. The Ontario Farm Animal Council appreciates this opportunity to provide its expertise and recommended improvements regarding Bill 50.

OFAC represents 40,000 Ontario livestock and poultry farmers and related agribusinesses on issues related to animal care. We've long been on record as supporting the need to update legislation dealing with animal cruelty. In fact, the council has been actively involved in the many

proposals and amendments that have helped to improve the OSPCA Act since 1991.

The content of this bill is obviously of great importance to our members since it will have far-reaching effects on animal agriculture and food production in the province.

Bill 50 is a set of very extensive and legally complex amendments that would fundamentally change the powers and authority of the OSPCA as well as the legal obligations and requirements of all animal owners and handlers in Ontario.

OFAC supports the overall intent of Bill 50; however, it is our strong opinion that this well-intentioned legislation not only requires but deserves improvement. We also feel it's vital that the legislation be written with great clarity from the outset so as not to be misconstrued in the future.

Our submitted changes are for two purposes: to eliminate unintended consequences for legitimate animal owners and practices, and to address community and legal concerns that have not been addressed under this bill.

We have submitted a total of 33 specific recommended changes to this bill and they're in this presentation. These improvements to Bill 50 are based on both legal analysis and discussion with the Ministry of Community Safety and Correctional Services. Many of these proposed changes are for purposes of clarification and transparency, such as definitions, duties of care and application of offences.

However, this legislation goes far beyond issues of animal cruelty. In working closely with the Ontario SPCA on farm animal care issues over the past 20 years, OFAC has identified and supported needed improvements in both governing legislation as well as operations of the agency itself. For example, we're especially supportive of plans to increase budget allocations for training to OSPCA inspectors, especially involving agriculture.

This bill substantively and fundamentally increases the power and authority of the OSPCA, and yet does nothing to require accountability and public transparency of this privatized enforcement agency. As such, many of our recommended changes are designed to address this flaw.

Where possible, we have submitted specific wording changes for your consideration; however, we also recognize that further consultations may be required to devise appropriate wording changes to the bill to address some of these matters. It's our hope that our appearance here today will be followed by subsequent opportunities to provide our expertise on this legislation and any resulting regulations.

In the meantime, I'd like to highlight several of the major improvements that the farming and food production community is seeking in this legislation. I'll refer to the detail as I go through.

(1) Assurance mechanisms to prevent unintended consequences for agriculture and food production practices now and in the future: These would include a preamble

within the bill as well as assured consultation in the regulatory phase. I would refer to, on page 4, number 1, where there's a little bit more detail on written assurance of regulatory consultation within the preamble. On page 6, numbers 8 and 9, we would like to add a new offence of nuisance or frivolous complaints, and further consultation with animal-based communities to address the wording and content of the duties-of-care provisions.

(2) We'd like to see a revision of the bill—section 21—to establish the OSPCA Act as the provincial standard, in order to ensure consistency across the province. On page 4, number 3, what we're talking about is to make sure that this act supersedes municipal bylaws, so that we have consistency.

(3) We would like to expand the bill to include government oversight and public accountability of both the OSPCA as a private enforcement agency, as well as the Animal Care Review Board as the appointed appeal body.

(4) Government regulation of the OSPCA enforcement functions and activities: These are covered in a lot of detail on pages 8 to 11. There's a lot of detail there on these two improvements. I'm not going to go through them—it would take too much time—but they're there for you to read.

(5) The addition, expansion or rewording of definitions in the body of the act: This includes, but is not limited to, defining what is considered "agricultural," as well as what is included and exempt from "animal exhibit, entertainment, boarding, hire or sale" activities under the "Interpretation" section. This is dealt with in detail on page 5, numbers 1 to 5. I think in there too we deal with, in detail, the replacement of the word "exemption" for agriculture with "accepted activity." "Exemption" is a fairly negative term that makes it sound like we are allowed to do things that are not right. We would prefer to have "accepted activities." Two really good examples are the Alberta and Manitoba acts.

Also, on the next pages, number 7, amend subsection 11.2(3) to permit for nuisance and animal pest control, and, in number 11, to reword subsection 11.2(3) to recognize training or permitting animals to fight for lawful purposes, such as predator and nuisance wildlife control.

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Number 6, the addition of acceptable activities stated in the bill, section 11.2, to include pest control and predator protection. That's dealt with on page 5, numbers 6 and 7, and page 4—sorry; I think I made a mistake there—7 and 11.

Number 7, the application of the same search warrant provisions in the bill for defined agricultural premises as has been proposed for veterinary clinics. That's covered in number 10 on page 7, to maintain the search warrant provisions currently contained in the act for agricultural premises.

I recognize that our limited time does not allow for us to present all 33 recommended changes to Bill 50 that we've put here. These have been attached for your

consideration, and I would be happy to address any questions you may have regarding these specifics.

The Acting Chair (Mr. David Zimmer): Thank you. This round of questioning will start with the Liberals.

Mr. Dave Levac: How much time, Mr. Chairman?

The Acting Chair (Mr. David Zimmer): About three minutes.

Mr. Dave Levac: Thank you. Thank you very much for your deputation. It is my understanding that your organization has been in consultation with the ministry on this bill from the beginning.

Mr. John Maaskant: We have not been in consultation on the bill from the beginning, no.

Mr. Dave Levac: Have you had some consultations with the ministry so far?

Ms. Leslie Ballentine: At our request, a member of the ministry did attend a meeting May 5 and presented the draft bill, but that's as far as—there has not been any consultation with ministry staff.

Mr. Dave Levac: My understanding is that there is—

Ms. Leslie Ballentine: We met with the current minister at our request in February, and we met with the previous minister before the election last August, again at our request.

Mr. Dave Levac: And there has been some of this input to them?

Ms. Leslie Ballentine: We have provided this input, but it has not been reflected in the bill that's before us today.

Mr. Dave Levac: In this committee work that we're doing presently, these recommendations will have another airing with the continuation of the consultation.

Ms. Leslie Ballentine: For the regulations?

Mr. Dave Levac: Yes. That's good; thank you. Some of the stuff that you're talking about may not be reflected in the legislation itself but may indeed be part of a consultation process that's been committed to for the regulations.

Ms. Leslie Ballentine: And that's one of the things that we've asked for, to be included.

Mr. Dave Levac: My understanding is that that's going to happen. The other question I do have is regarding some of the concerns you're laying out regarding pests. I have a scenario in my mind, and I think that's what you're getting at when you talk about the piece where it talks about dogfights and cockfights and what everybody recognizes as what nobody wants to see—why the legislation's in there. That is the use of an animal for sheep, a sheepdog, or the use of a ferret to ferret out gophers so that your cows don't go up lame on a farm where they break a leg, and you use it to ferret out gophers—is that what you're referring to?

Ms. Leslie Ballentine: Exactly, and the problem is the legislation does not specify dogs. We know it's talking about dogfighting and cockfighting and those types of activities, but it doesn't specify that. The way the wording is, it just talks about animals fighting or the people who permit animals to fight. We're sort of caught in that.

Mr. Dave Levac: Yes, and I understand that. My deep concern is trying to find the right grounds to do that because somebody might find a way to get other animals to fight each other for the same entertainment purposes, so you've got to be somewhat generic in order to prevent that from happening. If you're too specific and too prescriptive, you then miss the ones that nobody wants to have happen, so I appreciate your concerns, and it'll be taken under advisement.

Ms. Leslie Ballentine: And we've offered some alternative wording for you to consider.

Mr. Dave Levac: Perfect, thank you. Thank you, Mr. Chairman.

The Acting Chair (Mr. David Zimmer): Thank you. I will move to the Conservatives.

Mr. Garfield Dunlop: Thanks very much for being here this morning. I'm curious—maybe I haven't seen it in all this yet, but have you any comments on the entry without warrant, on the "Immediate distress—entry without warrant" section?

Ms. Leslie Ballentine: We do have a lot of concerns. We understand the reasoning for putting this provision in, and I think when the OSPCA presents, they'll probably give you the example of an animal that's trapped in the trunk of a car. They're not able to visually see the animal, but they know that the animal is in there. Right now, the law requires that someone actually has to visibly see the animal in distress.

We have a number of concerns, and we do go through it in the background information to this, but one of the problems is that the OSPCA does take anonymous complaints. We've had plenty of cases in agriculture, and I'm sure in other sectors, where nuisance complaints are an issue now under the current law. If we have added authority to go into a farm, a barn, based on an anonymous complaint—you know, if the caller says these animals are starving, they're in immediate distress—the inspector doesn't need to see those animals; they can wander in. We've got biosecurity issues, privacy issues. There's a whole set of issues around that. Then what happens? It turns out it was another one of those nuisance complaints. The animals have been put at risk; the farm business has been put at risk. So we do have concerns.

We also find it odd that it's inconsistent. Veterinary clinics are exempt from warrantless searches, so why wouldn't farms be? I just raise the question: Why the inequity?

Mr. Garfield Dunlop: Okay. Do we still have a bit of time?

The Acting Chair (Mr. David Zimmer): Yes.

Mr. Garfield Dunlop: The other question is, and I want to make sure I'm clear on this: Did you say that you really weren't consulted with? Because that's not what the minister's briefing notes that we received after the bill was introduced said to us. They said the Federation of Anglers and Hunters, the OFA and the Ontario Farm Animal Council were all part of the consultation process.

Ms. Leslie Ballentine: The three of us met with—

Mr. Garfield Dunlop: Did you pass in the hallway?

Ms. Leslie Ballentine: No, no. The three groups that you have mentioned, at our request—we were not invited—met with the minister last August, as I said. We were told at that time what the legislation would be. We weren't asked for input. We weren't asked, "Could you offer us solutions for this?" or "How do you feel about that?" It was sort of one-sided. It was presented to us. All three meetings have been that way.

Mr. Garfield Dunlop: Thanks.

The Acting Chair (Mr. David Zimmer): We'll move to the NDP. Mr. Kormos.

Mr. Peter Kormos: Hell, Garfield, not only were you told that these people had been consulted; the parliamentary assistant was told that these people had been consulted. So don't assume that it's just the opposition people who are out of the loop here.

Thanks, folks, for coming by. Look, day one here, Ms. DiNovo was here and I sat in with her for the first few moments. There was—dare I say it?—an animal rights activist who was angry about agriculture being exempted as a class. We got around to egg production, and chicken production in general, I suppose. I've got a lot of chicken farmers down where I come from. There are people out there who have grievances and concerns about the status of chickens, especially, again, in egg production. There are consumers out there who want to be able to pay artificially low prices for eggs that people want to eat.

Does the government have any business—because the act makes reference to accepted farm practices, and that indicates that, from time to time, these accepted farm practices are going to change; they're going to shift. That will be largely, in my view, consumer-dictated, as much as anything else.

What's your response to these people who want to see protection of farm animals codified, who want to see the Legislature become active and involved in legislating the standards under which animals are raised or under which you have things like egg production or milk production? What do you say to those folks?

Mr. John Maaskant: I'll begin and Leslie can finish and add to what I say.

This bill is not about—there's a whole code-of-practice process that we go through in all the livestock production which lays out what's acceptable, what's agreed on, what's a good practice. All those things are considered there. This bill, of course, is not really going to try to deal with that. It's going to deal with cruelty and how the OSPCA operates. So I would say it should not be in this bill.

Mr. Peter Kormos: But you understand that there are people who say that caging that little chicken—

Mr. John Maaskant: Oh, no, I understand that.

Mr. Peter Kormos: —and making it produce eggs so that people can eat eggs is a cruel thing; it should be outlawed. As you know, in England there's a strong movement, stronger than in North America.

1050

Mr. John Maaskant: I don't think we can settle that issue with this kind of a bill. I don't think the OSPCA can start making those judgment calls.

Mr. Peter Kormos: But should the Legislature be addressing that?

Mr. John Maaskant: I believe that it's already being addressed. But that's one of the reasons why we say that it's better to have a list of accepted practices than it is to have an exemption—because an exemption has a negative connotation. Frankly, that's what we would like to see and why we're recommending that it be dealt with as "accepted practices."

Mr. Peter Kormos: That's an interesting comment.

I share the Conservatives' concern about warrantless searches, but I also have a concern about wiretaps that are obtained without judicial authorization, as you know, and the police commissioners like Fantino who condone it, so there we are. We have some common ground, Garfield: You're as angry about Fantino as I am.

Interjections.

The Acting Chair (Mr. David Zimmer): Order. Order. Sorry. The final word to you.

Ms. Leslie Ballentine: I just want to add one other concern that hasn't come up, and that's over this idea of exemptions or accepted practices. The difficulty for us is the lack of definitions. Nowhere in this bill is "agriculture" defined. A cattle producer said about a week and a half ago that until a month ago, he didn't realize that pigeons were agricultural animals—and that's in reference to a pigeon-farming issue that we're dealing with—

Mr. Peter Kormos: He doesn't live in Toronto, does he?

Ms. Leslie Ballentine: No. But are they farm animals?

The Acting Chair (Mr. David Zimmer): On that note, you've got one or two more sentences left.

Ms. Leslie Ballentine: —and as well as "activities." We think that until you define these activities, exemptions or accepted practices are irrelevant because we don't know what we're talking about.

The Acting Chair (Mr. David Zimmer): On that note, we have to move to the next presenter. Thank you very much for organizing your presentation and attending today.

COLLEGE OF VETERINARIANS OF ONTARIO

The Acting Chair (Mr. David Zimmer): We'll move to the 11:30 slot: the College of Veterinarians of Ontario, Susan Carlyle. You've probably heard this before: You've got 15 minutes; I'll give you a three-minute warning as you get to the end of the 15. You may want to leave time for questions from the committee; that's your choice. Please introduce yourself for the record and then begin.

Ms. Susan Carlyle: My name is Susan Carlyle. I am the registrar of the College of Veterinarians of Ontario. I want to thank this committee for allowing us the opportunity to address you.

The college, just so everyone is clear, is the governing and licensing body which is required and authorized

under the Veterinarians Act to regulate the practice of veterinary medicine in Ontario. We are mandated to carry out that function in order that the public interest may be served and protected, and it is with that in mind that we make all decisions.

I'm very pleased to be able to offer the college's support for the changes to the OSPCA Act which affect the welfare of animals in this province generally and the veterinarians who care for them. I believe you have a letter before you recently stamped by the president of the council of the college, Dr. Michele Dutnall. I'm here today to confirm the message sent by Dr. Dutnall on behalf of the college and to answer any questions you may have.

I want to note at the outset that the college is very pleased to have been asked to be part of the process of revising the animal welfare legislation from the very beginning of the drafting of this bill. Veterinarians are very much involved and are being given the respect that they deserve to help ensure that the new legislation can accomplish its intentions.

We have three major issues that we want to address today.

The first is the matter of mandatory reporting of suspected abuse. Currently, as a result of the regulations made under the Veterinarians Act, veterinarians are allowed to report situations that appear to indicate animal abuse but are only allowed to do so as an exception to the otherwise prohibited breach of a client's confidentiality. Throughout the years, this has caused problems. The college has received complaints from disgruntled clients about veterinarians who have reported suspected abuse, and the college has had no recourse but to investigate the veterinarian in these cases. An investigation of alleged misconduct against a professional is a very stressful, time-consuming and expensive process, often taking months to resolve. It's a very trying experience. Once there is a positive obligation under law to report under the new legislation, along with the immunity protection that already exists in section 19 of the current OSPCA Act, the requirement to report means that the college will not be forced to act on complaints from alleged animal abusers, nor will the veterinarian be vulnerable to legal process. There will be a welcome freedom for veterinarians that allows them to deal proactively with what is a most disturbing situation for them. We are very grateful that the drafters recognize the unique role that veterinarians play in these circumstances.

The second issue I'd like to address is the right of entry without a warrant for OSPCA inspectors into facilities where animals are kept for various purposes, such as exhibition, sales or boarding. The college had specifically asked that this authority not include either veterinary facilities or the ancillary services such as boarding or grooming that are sometimes provided by veterinarians. Veterinary facilities and all that they contain are subject to the college's oversight authority in the form of accreditation, inspection, investigation and prosecution of misconduct in accordance with the Veterinarians Act,

regulations and minimum standards. In our view, there is simply no necessity for another layer of oversight. Again, we are satisfied that the authority of the college and the concept of self-regulation have been recognized.

There is a part two to that particular issue, which is very important and separate, in the right of the OSPCA to enter a facility without a warrant if there is a belief that an animal is in immediate distress. It may strike you as odd that the college had concerns and specifically asked that veterinarian facilities be exempted from that provision, but to their great credit, the drafters of the bill listened to us when we explained that to the layperson some of the medical procedures that a veterinarian may have to carry out on an animal may be seen as causing the animal distress. In fact, that may indeed be the case, but it may be absolutely necessary in the judgment of the veterinarian who is performing the procedure. For example, it is not unusual for an animal to be distressed and to vocalize when it is recovering from an anaesthetic. It would be very unfortunate if a veterinarian had to take time away from treating animals in order to be available for an inspection by an OSPCA inspector based on a concern raised by a well-intentioned but uninformed member of the public. We are very pleased to accept the exemption from this section while still being subject to entry where a warrant is in place. As stated above, the college is mandated to address concerns and complaints about veterinarians in the public interest.

Finally, we would like to address the identification of OSPCA-affiliated entities. As you know, there exist across Ontario some facilities which call themselves humane societies, despite their lack of affiliation with the OSPCA. Until now, there has been no law to prevent this. What this can mean to veterinarians who need to report suspected abuse is that they may have trouble locating an organization in their area with the authority to both receive such a report and, more importantly, to act on it. Once again, the drafters listened and we're grateful that they placed in the bill section 10, which specifically prohibits organizations or entities from holding themselves out as part of the OSPCA network when they're not.

We thank you for this opportunity, and we'll answer any questions you have.

The Acting Chair (Mr. David Zimmer): We have about three minutes per party, starting this time with the Conservatives.

Mrs. Christine Elliott: Thank you, Ms. Carlyle. I had a question with respect to the exemption from the search requirements for the veterinarians' offices. You mentioned that they were self-regulating and it was already covered by the college's rules anyway. What kind of investigations would normally be undertaken by the college if there were any suspicions and how would that come to the college's attention?

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Ms. Susan Carlyle: It can come in several different ways. First of all, someone can write us a letter, in which case that becomes a complaint and is handled under the complaint provisions of the Veterinarians Act. We can

also find out by reading an article, seeing an advertisement, hearing a rumour, and in that case, while there is no specific complainant, we can ask the executive committee of the college to authorize what's called a registrar's investigation for us to go out and do an investigation to determine what is happening and whether there are any concerns.

Mrs. Christine Elliott: How often would that happen in the course of a year?

Ms. Susan Carlyle: We get between 200 and 300 complaints per year, approximately, and registrar's investigations, generally only about 15 or 20.

Mrs. Christine Elliott: Because you've heard that there is some concern that the veterinarians' offices aren't included, whereas farm operations are. It's because of the fact of this ability to do your own investigation that you feel this isn't necessary?

Ms. Susan Carlyle: Yes.

The Acting Chair (Mr. David Zimmer): We'll move to the NDP. Mr. Kormos.

Mr. Peter Kormos: Thank you, Chair, and thank you, ma'am.

Wow. An investigation by the college. Like Mr. Zimmer, I'm a lawyer and I know what an investigation by the law society means: It means months and months of red tape and correspondence. That puppy's dead by the time you get there.

It's really two separate things, isn't it: the college's investigation about misconduct or inappropriate conduct, professional conduct on the part of a vet, and the SPCA using powers under legislation to intervene when an animal's in distress? That's right here, now—boom. Right?

Ms. Susan Carlyle: Yes.

Mr. Peter Kormos: But you argue that there's justification for requiring a warrant for the OSPCA officer entering a vet facility.

Ms. Susan Carlyle: Yes.

Mr. Peter Kormos: Because the urgency may not be so great as to require a warrantless search?

Ms. Susan Carlyle: Yes. When it is urgent, that is exactly where we would like them to come in and make sure that everything's okay, but where it is not, then we feel that the college can handle it.

Mr. Peter Kormos: But where it is urgent, you want the OSPCA to have warrantless search?

Ms. Susan Carlyle: No. We want it with a warrant.

Mr. Peter Kormos: So if it's urgent, though, that implies—

The Acting Chair (Mr. David Zimmer): I'm sorry; I missed your answer.

Ms. Susan Carlyle: With a warrant. We understand that they should be able to come in, but with a warrant.

Mr. Peter Kormos: But urgency implies immediacy.

Ms. Susan Carlyle: True.

Mr. Peter Kormos: So why would you argue that the SPCA officer should get a warrant if there's an issue of urgency in a vet's office, but not a warrant if there's an

issue of urgency in any other operation? I don't understand.

Ms. Susan Carlyle: I'm sorry; I don't understand the question. I'm only arguing that—

Mr. Peter Kormos: You think it's okay to have warrantless searches of non-veterinary offices if the issue is urgent?

Ms. Susan Carlyle: Yes.

Mr. Peter Kormos: Why, then, should you get a warrant if there's an urgent issue in a vet's office?

Ms. Susan Carlyle: Because of the definition of "distress." If there is a situation of immediate distress, we would like the OSPCA to come in, but with a warrant, in order not to come in on somebody's say-so when they don't understand what they're doing.

Mr. Peter Kormos: But getting a warrant, that's precisely the point: They're coming in on somebody's say-so; they're swearing before a justice of the peace they have reasonable grounds to believe that—

Ms. Susan Carlyle: But it's fast to get a warrant.

Mr. Peter Kormos: Oh, is it?

Ms. Susan Carlyle: It should be.

Mr. Peter Kormos: In Peawanuck? Attawapiskat?

Ms. Susan Carlyle: Maybe not.

Mr. Peter Kormos: Timmins on a Sunday afternoon?

Ms. Susan Carlyle: Maybe not. I agree.

Mr. Peter Kormos: But then what's good for the goose is good for the gander. We can't have it both ways. If warrantless searches aren't justified for a vet, why are warrantless searches justified for other animal caretakers?

Ms. Susan Carlyle: I think that goes back to how often veterinarians would realistically be involved in animal abuse, whereas the public may be more often.

Mr. Peter Kormos: Don't we trust trained SPCA officers to use their discretion?

Ms. Susan Carlyle: We do.

Mr. Peter Kormos: A very interesting position for the veterinarians to take—or their college, rather. Yes ma'am. Thank you kindly.

The Acting Chair (Mr. David Zimmer): And on that note we'll move to the Liberals. Mr. Levac.

Mr. Dave Levac: A couple of points of clarification. Thank you for your deputation.

The clarification for everyone is that in the changes being proposed in Bill 50, warrantless entry is still permitted, even with the exemption, under two circumstances. One would be if the owner gave permission for a warrantless entry. So if the veterinarian said, "I've got nothing to hide; come on in," that's doable. Number two, if there's already a charge for changes by the OSPCA, they're allowed to enter. Even with this exemption you're talking about, it would be number two, not number three. There are three sections in which a warrantless entry would be permissible, so for clarification purposes on the kind of rigmarole you just got put through, warrantless entry still exists. Is that correct?

Ms. Susan Carlyle: Yes.

Mr. Dave Levac: Thank you.

Second clarification, Mr. Chairman: The previous deputation indicated that there wasn't any consultation, and I would suggest respectfully that the staff of the previous deputation, the Ontario Farm Animal Council, have been in ongoing dialogue with the staff of the ministry and have indicated an accessibility to the ministry staff. So if there's some confusion about consultation, I hope that clarifies it a little bit.

The last question I have for you is one that we've heard before, and that is euthanasia. There were some indications before that OSPCA officers came in and shot a cow. Is that possible to do without a vet?

Ms. Susan Carlyle: Yes, it is. They do have the right, but they should be trying to at least consult with a vet. Often what happens is that if they know they're going into a bad situation, they will take a veterinarian with them.

Mr. Dave Levac: So in most cases, not the extreme, but in most, any type of animal put down is done with the advice and/or recommendation of a veterinarian.

Ms. Susan Carlyle: Yes.

Mr. Dave Levac: Thank you.

The Acting Chair (Mr. David Zimmer): Thank you very much for attending today and organizing your presentation.

ONTARIO SOCIETY
FOR THE PREVENTION
OF CRUELTY TO ANIMALS

The Acting Chair (Mr. David Zimmer): We will move to the 11:45 slot, the Ontario Society for the Prevention of Cruelty to Animals, Hugh Coghill, chief inspector; Kate MacDonald, CEO; Jim Sykes, chair of the board of directors. You've heard the process: 15 minutes; I'll give you a three-minute warning as you get to the end of your time. You may or may not want to leave time for questions. That's your decision. If you would introduce yourself for the record.

Mr. Hugh Coghill: Thank you, Chair, members of the committee. My name is Hugh Coghill. I'm the chief inspector for the Ontario Society for the Prevention of Cruelty to Animals. I'm joined today by Kate MacDonald, the chief executive officer of the Ontario SPCA, and Jim Sykes, who is the chairman of the board of directors of the Ontario SPCA.

We provided—and I'm hoping you all have a copy; I see that they're around—a presentation for you. Rather than going through that and reading it verbatim or even paraphrasing it, I think it's probably better that we leave it with you as a resource to consider as you will. I'm sure that you will give it its due attention.

I thought that we would perhaps discuss a couple of other questions. We've been reading the Hansard transcripts that have been coming out as a result of this committee and the great work that you've been doing over this past week. Clearly, there's been a couple of issues that have come up, some of them repeatedly, some areas that perhaps we can take this opportunity to clarify

a few points and perhaps give a little bit more time for questions if the committee should have any questions of us.

One of those is the issue of warrantless entry. It would be, I'm sure, a lot more helpful if the people who had made the presentations to this committee had taken the time to read the existing act and to read the bill. The fact is that warrantless entry has been a tool that SPCA officers have been able to use, have had at their discretion, since 1919. For almost 90 years, we've had the authority of warrantless entry.

Section 12 of the Ontario SPCA Act enumerates that specifically and says that an inspector or agent must observe an animal in immediate distress. Warrantless entry is used in those situations where an animal's life is in danger and it is at severe risk. When the officer can observe that animal in that immediate distress, he can enter, other than a dwelling. A person's home is their castle, and we know that. In order to enter a dwelling house, we would have to get a search warrant, and we do that regularly. Entering without a warrant is something that we have had for a long time; it's not new. This bill that's before this committee now will simply modernize the wording and change it slightly to come in line with other pieces of legislation that are already in existence around the province.

1110

Another issue that has come up that I'd like to speak to is the perceived—by some people—lack of training for Ontario SPCA officers.

Up until 2007, the Ministry of Community Safety and Correctional Services gave us \$119,000 per annum to assist us with our training initiatives across the province; in 2007, they increased that to \$500,000. We use that money and we're improving our training regime as we go along, and we're grateful for that increased funding because it has allowed us, this year, to expand our initial training of cruelty officers to two weeks.

That is augmented by over 50 training days throughout the year that are offered to all cruelty investigators across the province. We're now looking at the possibility, subject to board approval, of moving to a four-week training program, starting in 2009. That would mirror the amount of time that special provincial constables take in their training.

Do we need to go to the Ontario Police College for six weeks? That extra two weeks, I suspect, would be spent on the Highway Traffic Act or firearms and other legislation that really is not relevant to us. So that extra two weeks at OPC would not be relevant to our officers.

We currently use the services of Burgess and Associates, which is a company that did a lot of the training at OPC up until very, very recently. They're in every province of Canada, training law enforcement at all levels of government, and they're in nine countries around the world. We use the services of a professor from Algonquin College to do our continued training on taking statements, note-taking etc. We're using a current Ontario Provincial Police officer to help us with our training

on defensive tactics. We have a former crown attorney who has assisted us with our core procedures and preparation etc., we use the resources of the Ontario Ministry of Agriculture and Food, and we're grateful for the assistance that we've received from our friends at the Ontario Farm Animal Council.

One other issue that I'd like to address with regard to training is, it was suggested by someone that we could never become experts on zoo animals. Just for clarification: Animals that are in a zoo are still animals, as defined in the act. Even if the word "zoo" isn't mentioned, they're still covered, because they're animals as defined in the act. So whether they're in a zoo or on a farm or in your kitchen, they're still an animal and they're still subject to this piece of legislation. True, we can't become experts on zoo animals, as we can't be experts on all animals. That's a fact. But one of the beauties of the Ontario SPCA Act and, I believe, the spirit of Bill 50, in moving forward, is that it permits an investigator to be "accompanied by one or more veterinarians"—the wording in the act—and any other person that the investigator deems advisable. So if we get a complaint about the sitatunga at a local zoo and it has overgrown hooves, we may be able to go into that facility and determine whether or not the standards of care are being met for the sitatunga and identify that animal as an individual species, but whether or not it has proper care for its hooves may become an issue that we need an expert for. We would rely on assistance from our friends at CAZA, and there are a great many retired zoo people we do use on a regular basis and take with us to those facilities for their expertise, just as we have used Ontario Farm Animal Council representatives whenever we have an issue with a specific livestock species. We'll take one of their representatives with us to assist and guide the investigator as they do that investigation.

We also have a one-week training course that OFAC and OMAFRA both help us to deliver to all of our people annually. That's part of more than 50 days that we offer to our investigators to help them with farm animal issues.

There's been an issue raised from time to time about accountability. In fact, the first question in the package that we've given to you there deals with the issue of accountability. Just to quickly read that, the inspectors and agents are given authority by government, through the Ontario SPCA Act, to investigate situations involving animal abuse. The act provides terms of reference and authority for all of the society's work. Matters related to the administration of the act are supervised by the Ontario Ministry of Community Safety and Correctional Services. Failure to be accountable can result in sanctions by MCSCS, which could include loss of training funds or even authority under the act. Non-affiliated societies do not have this accountability to either the Ontario SPCA or MCSCS.

In addition to that, as a route of accountability, anyone who is aggrieved by the actions of the society, specifically the issuance of an OSPCA order or the removal of an animal, has a right to appeal to the Animal Care

Review Board, an independent tribunal that scrutinizes the work that we do and makes sure that we are acting within the parameters of the legislation. Moreover, I think the final authority on accountability is the courts. When we prosecute people under the Criminal Code of Canada or even under the existing puppy mill sections—the standards of care for dogs and cats that are being bred for sale—we're subject to the scrutiny of the courts and we must abide by their guidance.

I think those are some of the issues that have come up over the course of the week. I hope that helps you. The three of us are here to answer any questions, if you have specific questions for us.

The Acting Chair (Mr. David Zimmer): There are about three minutes per party, beginning with the NDP.

Mr. Peter Kormos: Thank you, folks. You're much too defensive. Look, people have got grievances with the OSPCA. We heard from them from the get-go. I think the very first presenter was somebody who had a problem with—no, his problem was with the humane society; other people have problems with the OSPCA. You've got this basketball game where people try to score points. We understand that.

But some of the concerns as well—so here's your chance to answer these. There are concerns about transparency; some people complaining about an inability to access things as mundane as OSPCA bylaws. How about that one?

Ms. Kate MacDonald: Let me shed a little light on that one for you. Our bylaw, as with any corporation in Ontario, is a matter of internal function. It regulates how we operate inside. We don't see it as an external document. It has been our practice in the past that we don't release it to members of the public. However, we commonly share our bylaw with our affiliate societies and with our branches across Ontario. We have had some recent requests for copies of the bylaw from the general public, and our response has been, "It has not been our policy or practice, but let us bring it forth to our board meeting." The next one is in September. When we get approval to let it out to the public, we're certainly happy to do that. There is nothing controversial or secretive in it; it's just—

Mr. Peter Kormos: Please work on that, because that's a problematic one for us. Do you understand what I'm saying? Public funds: You are an arm of the government, so to speak, although a private agency, very much in the same way that family and children's services is a private body but is a transfer payment agency and does governmentally determined or amended work. For Pete's sake, that just causes so much grief when people come and say, "We can't see the bylaws." Let them see the bylaws. Lord Jesus, you've got enough disaffected OSPCA board members who have probably given it to all of their family members, anyway.

Ms. Kate MacDonald: I'm sure they have. I just want to point out that we are also a registered charity; we are first a registered charity.

Mr. Peter Kormos: Well, good. All the more reason to make your bylaws available. People give you money,

trusting that you're a non-profit. Let them look at the bylaws, Lord love a duck.

Ms. Kate MacDonald: By function of our governance, we will follow the proper procedure by which to release them to the public.

Mr. Peter Kormos: The Ombudsman, Mr. Marin, talked about this bureaucratise and rule-itis. Don't get caught up in that. You're causing problems where you don't need problems, for Pete's sake. Show people the bylaws, and then that problem's over. You build a little bit of rapport and trust. I appreciate your response and candour, but it's become such a pain in the butt, hearing that complaint when it could be so easily resolved.

Ms. Kate MacDonald: It's a relatively new complaint for us—

Mr. Peter Kormos: Yes, but it's still a pain in the butt.

Ms. Kate MacDonald: Certainly. I don't want to confuse or create an expectation that is not going to be immediately resolved. We will follow, according to CRA, the governance process. They will not be available until we have a board motion. The first opportunity would be late September of this year.

Mr. Peter Kormos: I know, but public funds mean public accountability.

The Chair (Mr. David Zimmer): On that note, we'll move to the Liberals.

Mr. Dave Levac: Thank you for your presentation and all of the good work that you do. One of the things that I came through with at the request of the committee—and I provided that—was the statistical number of cases dealt with: 16,682 or something to that effect. It boiled all the way down through an ACRB process of maybe 12 cases. So we're looking at a large myriad of complaints that are getting looked at in terms of cruelty to animals, and proportionately, I would suggest that your record is very good. Therefore, if you could go over some of the room for improvement that you're looking at as a result of this new fleshed-out bill. Your comment attracts me very much, about being more proactive and preventive, rather than just to reacting to cruelty reports.

1120

The essence of this bill: Does it give you that capacity to be better in communication, better in education and better in working with the stakeholders who take care of animals and the planet to do a better job?

Mr. Hugh Coghill: Thank you for that question. The short answer is, yes, I think it does. You're correct: In looking at the statistics, a rough analysis of that, of 16,000 reported complaints that are investigated across the province in a year, 2,000 orders are issued to relieve animals from distress. By simple math, that tells me that 14,000—the vast majority of the complaints that we deal with—are resolved with public education and helping people work out whatever sorts of issues they may have with their animals, and helping them to provide better welfare.

The new bill and the tools that we'll have with the new bill—I think the fact that there will be the potential

for prosecution under a provincial offence, a much easier process than the Criminal Code—will be a greater tool for us to be able to convince people that they need to provide this proper care for their animals.

Mr. Dave Levac: Finally, just one last question. There has been an assertion that there have been some renegade OSPCA officers who are overzealous. We've heard some horror stories here that, if true—and I have no reason to doubt, from one's perspective, that they felt put-upon. With the new powers that the chief inspector will be provided with, would that be available for the chief inspector to ensure that there's a better way of educating their inspectors and making their inspectors more sensitive to the circumstances they are facing, particularly on farms and in rural Ontario?

Mr. Hugh Coghill: Yes, sir, I agree. I think very much so.

Also, if I can just go quickly back to the issue of transparency, it has been reported in Hansard that the euthanasia rate at Ontario SPCA shelters is something as wild as 50%-plus, as I think was mentioned. Again, one only needs to spend a bit of time looking at the website of the Ontario SPCA—and I printed it just so that I would have the facts here today. In 2007, 1.2% of the dogs admitted to our branches were euthanized for overpopulation. Sadly, 9.6% of admitted cats were euthanized. We're not proud of that. That's very sad for us. People who work in animal welfare don't want to have to euthanize animals, but we're faced with that reality, so those numbers are available to the public.

The Acting Chair (Mr. David Zimmer): And on that note, we'll move to the Conservatives.

Mr. Garfield Dunlop: Thank you very much. I've got a couple of quick questions.

First of all, I want to congratulate the Midland SPCA branch. It was a great opening that we had a few weeks ago, and they've done some fine work up there.

On section 6, I'm not sure if the government wants to drop it or not, but we haven't had any of your branches or your affiliates come here and support keeping section 6. Can you explain that, why no one would want to support it?

Mr. Jim Sykes: I think it's not an issue for those branches and affiliates. I guess two years ago—there was some reference to the fact that the OSPCA had historically been a dysfunctional organization, and there were changes in the governance model. They were based on the government-funded governance review that was done at the OSPCA. So a lot of the remarks that were made about the past were shared by the constituting members of the OSPCA. Our belief is that we fixed it, and we've worked with the minister's office to lay out the plan, where we are, and we've made huge progress. I think we speak with one voice. We understand the accountability issues.

I guess, Garfield, the thing that is somewhat perplexing to me is that I see two themes through these discussions. One is saying, "We need more accountability from the OSPCA," and another is saying, "We want

organizations that aren't affiliated with the OSPCA, which hold themselves out to be humane societies, to be allowed to do that without any accountability to the OSPCA or to the government." I guess it just becomes, which is it that the government and the people of Ontario want? Is it accountability or is it a free-for-all?

I think our branches and our affiliates feel adequately represented here today by our chief inspector, our CEO and myself to speak to the committee. We didn't feel the need to go into each community that you might be meeting in and give you the same message.

Mr. Garfield Dunlop: Okay. I just thought somebody would have come out and we would have seen a lot of support for section 6. We haven't seen that at all through these hearings, and we're into our fifth day.

Do I have time to ask something else?

The Acting Chair (Mr. David Zimmer): Yes.

Mr. Garfield Dunlop: Finally, I wanted to ask—

Mr. Peter Kormos: You can have the balance of my time.

Mr. Garfield Dunlop: Okay, yes. Everybody always gets a lot of extra time when Peter speaks.

The warrantless entry thing: I still have a lot of concerns with that. I know if there's an example of a car where there's a dog inside it, in the trunk or something like that, yes, I can understand why you'd want to pry it open. But if you're talking about an overzealous inspector, what's to stop him from just entering any farm he wants to go into? I just can't understand that. He doesn't have to go into the house, but he can go into any barn, any implement shed. People have a privacy issue, as far as I'm concerned, and I've got a real problem with that section being in there.

Mr. Hugh Coghill: I agree. I'll comment on that by saying that first of all we adhere to OMAFRA's biosecurity model and our officers are all trained in the proper use of entering any facility where there are animals to ensure that biosecurity is adhered to.

The issue here is the term "reasonable grounds," and that's something that we didn't make up. It's established through the courts and an officer would have to formulate reasonable grounds in his mind and be able to justify that if he were in court or taken to task on that. We train our people on that. So they can't just go along and say, "I think that I'll go in and have a look at this barn." They have to have reasonable grounds to believe that there is an animal in immediate distress, and heavy emphasis on the word "immediate." It's not just a matter of, "Well, they didn't water them today, so I can go into the barn." It's a matter of animals that are in immediate distress, at the risk of death, in order to be able to enter a facility and, again, only to relieve that animal from its immediate distress.

The Acting Chair (Mr. David Zimmer): All right, and on that note, we're just slightly over the time limit. Thank you very much for attending and organizing your presentation to this committee.

Members, we're well ahead of our schedule. The next person I would call on is at 12:45.

Mr. Dave Levac: There are others here.

The Acting Chair (Mr. David Zimmer): They weren't, but I think they are now. Just let me speak to the clerk for a second.

CARL NOBLE

The Acting Chair (Mr. David Zimmer): The 12 o'clock slot is now here, Carl Noble, if you'd come forward. Mr. Noble, you'll have 15 minutes for your presentation. I'll give you a three-minute warning as you approach the end of that time. You may or may not want to leave time in your presentation for questions from the members of this committee, but that's your choice. Would you introduce yourself for the record and then begin?

Mr. Carl Noble: I'm Carl Noble, and I thank you for the opportunity to appear before you. I propose to use my time slot to briefly introduce myself and my experience with the OSPCA; then I would like to provide some examples of what I think needs serious improvement; and I conclude with five brief recommendations that I believe would improve the legislation and the thrust of what we are trying to achieve.

Our family has had a farm on the Bruce Peninsula for over 40 years. I am a retired professional firefighter and spent 25 years on the North York Fire Department, 17 of those years as a captain of the rescue and salvage unit. I was on the executive of the Ontario Women's Hockey Association for 28 years, as well as nine years on the Canadian Hockey Association. I have spent 16 years in municipal politics, the last six years as mayor of the town of South Bruce Peninsula. I was elected to the board of the Ontario Society for the Prevention of Cruelty to Animals for eight years and was one of the 29 directors who resigned en masse from the board over the direction it was going. I can assure you I have spent the last 40 years in close proximity to people and animals, both those in normal life and those who are in great distress.

1130

The reason I resigned from the OSPCA board was because of deficit budgeting and the fact that they took a 180-degree turn in training and appointment of investigators. The newly appointed chief investigator was of the opinion that if you were charged by the OSPCA, you were guilty until proven innocent, and this went directly against my grain. I sat on their investigations committee, and when suggestions were made on how to improve, you were told not to interfere, as you would be jeopardizing an investigation. What really upset me was the fact that they suggested bullet-proof vests, nightsticks and handcuffs; I was of the opinion they should be taught some people skills first to make them better investigators.

An investigator's training consisted of two days, during which they were given police powers and sent out into society to catch animal abusers. My wife has fostered animals for the OSPCA for many years and raised funds for them in the thousands of dollars. We were having a fundraiser at our home and one such investi-

gator, who had just been appointed and received her nice blue shirt with the gold badge on the sleeve, patted herself on the sleeve and said, "This is power." After she left, my wife's comments were, "I think we have trouble."

In essence, the OSPCA operates a powerful, private police force, which answers to no one other than themselves, and it is time they were made accountable to the province and to society. They were given police powers and yet they need the backup of our OPP officers for most calls. Why? They have used our police to force people into their homes or into the back of a cruiser while court cases have proven they stole and sold the owner's animals before, and in some cases without any redress in courts; all of this with the assistance of our OPP. Why is that? Why does someone who has police powers require the OPP at most calls to carry out their mandate?

I sat on the police services board of our municipality when I was mayor and I can assure you that anything the OPP did in our town at the request of the OSPCA was charged back to the province and not the town. If it persists and you are not able to change the act to protect towns from added costs, it will be brought to the attention of all towns having contracts with the OPP. When we as a town pay over \$100,000 per officer under contract, I'm sure other towns would like to be able to move some of their costs back to the province. Are you willing to donate another \$5 million for them to have the assistance of the OPP?

As I have stated, some people are not able to defend themselves because they do not have the money to hire a lawyer, and the draft legislation makes it even more difficult, such that a person must have a lawyer or represent themselves when they appear before the Animal Care Review Board. What chance do you think the person feels that they have when they walk into an Animal Care Review Board hearing and the OSPCA and the representative of the Animal Care Review Board are sitting chatting to each other? Or are they deciding how guilty the person is before he has had a chance to defend himself? How would you feel if it was you? Then they walk over and hand you the disclosure of the OSPCA for the case which is going to get underway immediately. You have no time to prepare and you feel you don't have a chance in hell of defending yourself in a kangaroo court.

Why do you give millions of dollars to a private charity, pay them to take people to court on charges they have deemed animal abuse, pay for all of the OSPCA court costs in an indirect manner and yet refuse any legal assistance to the accused, even though they are trying to defend themselves in a criminal case which, if convicted, could lead to jail time, fines and all of the restrictions which apply after being convicted of a criminal charge? One conviction I am aware of was for having the person plead guilty to having a dirty budgie cage.

All of this type of information could be false, but in the investigators' minds—and their minds alone, as there are no straightforward regulations other than what the in-

vestigator wants to interpret from what vagueness already exists in the OSPCA Act. The danger lies in the zealotry, the uncontrolled discretion and the potential for serious misinterpretations leading to serious, disproportionate consequences.

We have seen cases defended in court against the OSPCA, but we have seen many more where people have been wrongly convicted because of juggling the truth. We have seen cases that did not get to court because a deal was struck between the OSPCA and the animal owner, where the OSPCA would let the owner pay them money and would drop the charges but it all had to be kept confidential. It sure wasn't confidential when they released all their information and accusations to the media and destroyed the person's name before they had a chance to defend themselves. What they wanted was the media exposure to increase their donations, and if they got what they wanted, then a deal could be made, especially if they also got the animals, the money from the sale of the animals, and the money they got from the deal they struck with the charged person.

We need accountability. For example, we need to be able to stop OSPCA investigators from waiting for someone to tether their dog outside and leave to deliver a child to school, and when they arrive home, the dog is gone. In this real-life example, the OSPCA took the dog, left an order to have a doghouse built, and then after two or three days, offered the return of the dog if they were willing to pay the boarding and expenses of \$200. This particular lady was one who went out of her way to pick up and deliver her neighbour's challenged child to school, all of which took 20 to 25 minutes, and then had the added cost if she wanted her dog back. This happened more than once, and it is not right that the person should be at the whim of an OSPCA inspector, who in turn sells the animal back to the owner.

We have had to deal with nonsensical problems such as straw being in a doghouse. In Grey and Bruce counties, the straw was a necessity, yet in the Sarnia area, another inspector would not allow it to be used. Yet in both cases, compliance orders were written and issued demanding compliance to inconsistent standards. The man in Grey-Bruce was harassed so many times over straw in the doghouse, which the dog would promptly remove because he didn't like it, that he finally took his 10-year-old hound, which he had raised and trained from a pup, and had him euthanized. He was unable to communicate his experience, as he was too traumatized and unable to talk through his tears. Is this how people should be treated?

Since I have left the board of the OSPCA, I have heard many stories because they knew I cared and would try to change the way the OSPCA operated. I can't change the act; only you can influence its ultimate form prior to the Legislature giving its final blessing. It is in this somewhat frustrated context that I offer some recommendations and suggestions to improve the legislative framework and its critical content.

(1) Make the OSPCA and their police force accountable to some competent body; if not a ministry, give it to

the Ombudsman. Independent review of the OSPCA is vital to the checks and balances of consistently and fairly applied province-wide standards, particularly given the new and intrusive police powers of the investigators.

(2) If the Animal Care Review Board cannot operate as an independent, separate, quasi-judicial administrative entity and protect society with trained, respected and non-appointed people, then get rid of it. It is only another expense and frustration for anyone who goes before it as well as the taxpayer in general. Such a tribunal must be highly professional in every respect and carry with it all the necessary features of natural justice and procedural fairness.

(3) Before the act is changed, ensure that the regulations are written, ready to go and properly promulgated. Governments are notorious for having regulations follow about six months after the passing or changing of an act.

The Acting Chair (Mr. David Zimmer): You have about three minutes left.

Mr. Carl Noble: Thank you.

(4) Have the OSPCA inspectors properly trained by the government and not the OSPCA. Once again, independence is critical, as is accountability. If that cannot be done, then turn the investigations over to the OPP and the care of the animals over to the OSPCA.

(5) We need accountability for and to the people of Ontario.

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I would like to thank everyone for listening to my diatribe. I appreciate the fact that you have taken time from your summer to form this committee, because it was in question whether it would be formed.

Mr. Peter Kormos: Chair, point of order: Can this be set for two minutes per caucus?

Interjection: Agreed.

The Acting Chair (Mr. David Zimmer): Agreed. Two minutes per party, starting with the Liberals. Mr. Levac.

Mr. Dave Levac: Thank you very much, Mr. Noble, for your presentation and for voicing your concerns. By point of clarification or point of question about what your comments are, in your deputation you said "we" a few times. Are you representing any specific group?

Mr. Carl Noble: There are four or five people who phone call back and forth. We attempt to go through different court cases that the OSPCA is involved in. If we have a person who has received an order from the OSPCA, we try to direct them to a competent lawyer if they can afford it.

Mr. Dave Levac: So you're not an organization per se?

Mr. Carl Noble: We are not an organization, no.

Mr. Dave Levac: Thank you. I just wanted some clarity, because you sometimes said "I" and sometimes "we."

You had said earlier that you questioned whether or not there was going to be a committee. I'm the parliamentary assistant to the minister, and in my opening

remarks I indicated that we would be going to committee and that we would be travelling. Are you aware of that?

Mr. Carl Noble: We had a meeting with Mr. Bartolucci; I believe it was approximately three weeks ago, maybe. It was before the House prorogued, and at that time he was not sure that there were going to be committees.

Mr. Dave Levac: I made the commitment for him.

Mr. Carl Noble: I do appreciate it.

Interjections.

Mr. Dave Levac: There are times Mr. Kormos doesn't believe I know what's going on and there are times where I actually make things happen.

I appreciate your presentation, and your comments will be taken into consideration.

The Acting Chair (Mr. David Zimmer): We'll move to the Conservative Party: two minutes. Mr. Dunlop.

Mr. Garfield Dunlop: It's great to see you gentlemen come down this morning for these hearings.

One of your recommendations is for more training. My own personal opinion is that if you try to push this job over to the OPP, it's just going to be absolutely a tremendous expense. I'm curious: What kind of training would you suggest the OSPCA inspectors take?

Mr. Carl Noble: I think I mentioned in my presentation that, number one, the person has to be selected for people skills. I am aware of approximately five inspectors or agents of the OSPCA who, when they move onto a person's property, feel that they are boss, and yet they've only had two days' training. How long does an OPP officer train to have police powers? It really bothers me that we have somebody who is given two days' training and they have the official powers of a police officer. Right now I believe the OSPCA is trying to increase the number of days for the training, and that, again, was thanks to the provincial government for funding that was provided to them. That's a step in the right direction but, boy, oh boy, there are people out there who really, really should not be doing the job.

The Acting Chair (Mr. David Zimmer): And two minutes for the NDP: Mr. Kormos.

Mr. Peter Kormos: Mr. Noble, yours is a very disturbing presentation, and the committee has heard from any number of people who have bones to pick with the OSPCA because they feel that they were dealt with improperly as subjects of investigations or that their animals were improperly dealt with.

But, folks, Mr. Noble is either insane, totally delusional, or he's here telling us things that we should be paying close attention to. He doesn't strike me as insane and delusional: a former professional firefighter, municipal politician, mayor for six years. Do we discount these comments entirely? I say if we do, we do it at great risk, because here's a very, if you will, independent commentator—he isn't complaining about how his animal was dealt with by the OSPCA; he's isn't complaining about how he was dealt with as a subject of an investigation—who comes across as very rational, with some considerable documentation. If the OSPCA is

going to be given the enhanced powers—and they are; nobody’s quarrelling, by and large, with that proposition—if they’re going to be peace officers, if they are going to be the people who enforce this quasi-criminal legislation, and nobody’s suggesting that it shouldn’t be quasi-criminal legislation with penal consequences, then the concerns that are raised by Mr. Noble should be taken seriously. I say to you, Chair, that I’m going to be referring to this presentation in third reading debate. Really, this legislation’s going to pass because I think all three parties, and certainly New Democrats, support the legislation. We have some concerns about bits and pieces, but support it. But we should be raising our concern about the enforcement of this legislation. Quite frankly, I think that it’s clear. We have the OSPCA saying, “We are not going to show you the bylaws, because we don’t have to.” That’s what they said.

Public monies mean public accountability. “We don’t have to.” We’re told that the bylaws are innocuous. If they’re innocuous, show us the bloody bylaws. I think that there should be a thorough investigation of these concerns about the OSPCA. It’s an injustice, as well, for the good people working for the OSPCA, because there’s a whole lot of good folks working for them; I know those folks. I say that there should be an inquiry into these types of allegations, so the air can be cleared once and for all.

Mr. Carl Noble: Mr. Kormos, if I might: I do not believe that the OSPCA should be gotten rid of. There is a need for it. I sat there for eight years as a director on the OSPCA, and I had the belief that I was really doing something. Then, when it started to change, it seemed as though it started going down the track the wrong way, and we couldn’t stop the train and now there are people out there who are harassing good citizens of Ontario. It really makes me sick that I might have been part of that.

The Acting Chair (Mr. David Zimmer): On that note, thank you very much for taking the time to attend and to present to this committee.

Mr. Carl Noble: I appreciate it. Thank you.

ONTARIO FEDERATION OF ANGLERS AND HUNTERS

The Acting Chair (Mr. David Zimmer): Members, we’ll move to the 12:45 slot, the Ontario Federation of Anglers and Hunters, Mr. Greg Farrant.

Mr. Farrant, you will have 15 minutes. I’ll give you a three-minute warning as you get to the end. You may want to leave time for questions from the committee; that’s your choice. If you would introduce yourself for the record.

Mr. Greg Farrant: Certainly. Thank you very much. Good afternoon, Mr. Chair, and members of the committee. My name is Greg Farrant and I’m manager of government relations and communications for the Ontario Federation of Anglers and Hunters, the largest charitable, non-profit conservation organization in the province, with 83,000 members and 655 member clubs.

I’m also pleased today to be appearing on behalf of our colleagues at the Canadian Sportfishing Industry Association, the Delta Waterfowl Foundation and the Wye Marsh Wildlife Centre, who have asked us to represent their views on Bill 50 before this committee. We very much appreciate the opportunity to appear before you today to comment on the legislation and make some suggestions for improvements.

Let me say from the outset that, like all right-thinking Canadians, the federation and the groups I represent here today do not in any way condone animal abuse and are supportive of thoughtful improvements to the current legislation. While it is disingenuous to suggest that this is the first change to the act since the early 1900s, given that it has been amended on at least five previous occasions, we agree that this is the first comprehensive amendment to the act in decades.

Like many groups representing the animal welfare and animal rights communities who have appeared before you, the OFAH and our partners have extensive experience in dealing with legislation that impacts upon the use of animals. In 2002, the federation and the Ontario Farm Animal Council played a major role in the passage of a private member’s bill by Ms. Munro, the member from York North, which amended the act to address problems associated with so-called puppy mills.

Over the last decade, the OFAH has also worked at the federal level with the OFAC, the Ontario Federation of Agriculture, the Association of Universities and Colleges of Canada and others in the medical research field to achieve reasonable amendments to the animal cruelty sections of the Criminal Code.

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We were pleased to support and help pass Bill S-203, which became law on April 17 of this year, which was referred to by the Senior Assistant Deputy Minister of Justice at the time as “a significant improvement to the current law regarding sentencing, with which all Canadians would agree.”

The groups I represent here today support the intent, if not all aspects, of Bill 50, which is clearly a well-meaning attempt to provide animals with greater protection, something that I have indicated we already support.

Having said that, the bill goes far beyond what we understood the focus of the legislation would be originally and contains a fairly complex set of amendments to the act, some of which we can support as is and others that need to be changed or quite frankly struck out.

We look forward to helping craft a bill that will address some of the very serious concerns raised by the OSPCA itself and which also offers those of us who deal with animals in various capacities the assurance that the standards, codes of practice and legislation that already govern our activities will afford us a measure of protection from any unintended consequences of changes to the act.

During debate in the Legislature on April 30, the Minister of Community Safety stated categorically that this legislation “will not affect, and will in fact protect,

current activities pertaining to wildlife, and hunting, fishing and trapping that are already regulated by MNR legislation, including the Fish and Wildlife Conservation Act.” At the time, he indicated that this would be achieved through regulation once the legislation is passed.

Since that time and at a meeting three weeks ago, the minister indicated to us directly that he is supportive of enshrining this protection in the legislation itself, rather than by regulation, something we obviously endorse and have provided the wording for in our attached list of amendments.

Earlier this week, the Minister of Natural Resources also communicated her support to the Minister of Community Safety for the inclusion of angling and hunting as either an exception or as one of several accepted activities in the legislation, which we also greatly appreciate.

During second reading debate on the bill, the member for Eglinton–Lawrence, who should be commended for his many years of hard work in support of animal protection, recognized that the agricultural and outdoor communities are not an issue here when he noted that “this bill is not about farm animals; it exempts agricultural communities under their regular practices. This is not about fish and wildlife and anglers and hunters, because they are not the problem.” Our desire to see the bill amended to enshrine recognition in the legislation, not regulations, that our activities are already governed under the Fish and Wildlife Conservation Act in clause 11.2(6)(a) is paramount. This can be accomplished by simply including the wording “activities carried on in accordance with the Fish and Wildlife Conservation Act, 1997, as amended.”

I do want to refer to one of the earlier speakers, Ms. Woodyer, who suggested that anglers and hunters, or fishing and hunting, was already exempt in the act. We do not see it that way, nor does our legal counsel. I would also note that in speaking against the enshrinement of that or the fact that angling and hunting should have exceptions, she chose the most unbelievable example to suggest that anglers and hunters, or hunters in particular, would try to beat an animal to death with a shovel and then claim a hunting licence gave them that right. That’s nonsensical. I further note that in her discussion, she raised the issue of cormorants, but when the member for Northumberland–Quinte West wanted to engage her in that conversation, she then suddenly said that the debate was too complex. The science does exist; the ministry has undertaken scientifically studied, measured culls, as have several border states, who are now calling upon Ontario to do the same thing.

Failing the inclusion of our suggested amendment in the act, we suggest that the word “Exception” be replaced with “Accepted activities,” and that a list of those activities be cited as they appear in the Manitoba Animal Care Act, which I’m sure you’ve all heard about a lot this week. This is not based upon a wish to be excluded from responsibility from the rules that govern people’s behaviour when it comes to how they treat animals, but

rather is based on the fact that the activities of angling and hunting are already governed by significant regulatory legislation. In our case, this is not only the Fish and Wildlife Conservation Act; so too do the Migratory Birds Convention Act, the Fisheries Act and several other statutes, as well as the hunting and fishing regulations published annually by the MNR, which give force to the FWCA.

If the bill is amended in either of the ways I have just described, this will address several of the major concerns also expressed by our colleagues at the Wye Marsh Wildlife Centre, an outstanding wildlife conservation and education facility that exists in Midland, Ontario, which Mr. Dunlop is very familiar with. They are already in compliance with federal animal care standards through the animal care committee of Environment Canada and have developed an animal care manual with protocols for every animal on site. They are required to obtain annual permits for all animals in captivity, as well as species-at-risk permits. In addition, they are subject to the requirements of legislation administered by the MNR and annual inspections by both the Environment Canada animal care committee and the MNR. Like angling and hunting, agriculture and medical research, why should those standards be ignored in favour of a third regulatory body?

In the interests of time, I’m going to try to briefly touch on just a few more examples. If the bill is amended to recognize angling, hunting, trapping, farming, medical research and a host of other accepted activities, several of our concerns will have been addressed. If not, a major concern for us and many others is the definition, or lack thereof, of the word “distress.” The definition included in the bill is the same as in the old act, with its basic flaw of vagueness, since it is defined as “the state of being in need of proper care, water, food or shelter.” Frankly, it is a function of being alive that requires constantly being in need of these basic necessities, which then poses the question: Is distress a constant condition?

The inclusion of the philosophically troublesome definition of “immediate distress” in subsection 12(8) is also of concern. This requires immediate intervention in order to alleviate suffering or to preserve life. Are we to assume from this, then, that “distress” involves suffering that does not need to be alleviated, while “immediate distress” does?

In our opinion, the OSPCA views all distress as “immediate,” and therefore the wording in Bill 50 creates a smokescreen or an opportunity as it relates to searches undertaken with a warrant versus those without. With the new definition in place, inspectors will be provided with a mechanism to routinely claim “immediate distress” and search without a warrant. Surely this is not one of the effective and progressive approaches referred to in the preamble of the bill.

The Acting Chair (Mr. David Zimmer): You have about three minutes.

Mr. Greg Farrant: Thank you, sir.

In this case, the committee may wish to consult other legislation, like the Animal Protection Act in Alberta.

While there are references in the bill to native fish and wildlife, it reserves regulation for the defining of these until later. In fact, the proposal for non-application to native wildlife and fish in the wild in prescribed circumstances or conditions is in fact a Trojan horse, since virtually every word of clause 11.2(6)(a) has yet to be defined. For instance, what of fish reared in hatcheries? Are they wild or only considered as such after they are released? Our amendment would alleviate this.

The bill contains other definitions—"reasonable grounds"—which Mr. Coghill touched on, so I will pass on. I do want to mention in support of OFAC that section 21, which provides for circumstances where a municipal bylaw could overrule the provincial statute, is something we strongly object to and needs to be rescinded. If not, you risk seeing the creation of a patchwork of differing standards across the province.

During second reading debate on Bill 50, the member for Eglinton—Lawrence, the member for Dufferin—Caledon and others mentioned their support for section 11.2, which refers to the fact that no person shall train an animal to fight others. They missed the words "or permit." This is something that concerns us greatly. It is not beyond the scope of possibility that in the course of protecting a herd or during the pursuit of an animal during a hunt, a dog would come into conflict with another animal. While recognition of the Fish and Wildlife Conservation Act in clause 11.2(6)(a), or the term "accepted activities," would respond to the concerns we and others have responded to in this context, I put it to you that without better defining what it means—"or permit"—those words should be struck down.

With that, I will bring my comments to a close. I know we're running out of time and there might be some questions. Thank you, sir.

The Acting Chair (Mr. David Zimmer): We have almost a minute per caucus if you just want to make a brief comment or statement, beginning with the Conservatives. You have less than a minute.

Mr. Garfield Dunlop: Yes, to Greg, I just want to thank you for being here. The presentation is excellent. There are some excellent amendments in there. I hope the government will listen to those. I know that you're one of the groups that was originally on the list the government provided to us that said that you were consulted with a lot, and I don't think you were. I just want to say that the research you've put into this and the types of amendments, I think, are what this bill really does need. I appreciate your bringing forward some of these amendments for us.

The Acting Chair (Mr. David Zimmer): And to Mr. Kormos, a comment?

Mr. Peter Kormos: I'm intrigued. I want to know if you were consulted or not. Were you? This way, Mr. Levac will have a chance to—

Mr. Greg Farrant: Yes, with Mr. Levac sitting there, I want to be very careful about this.

Mr. Peter Kormos: Just be straight.

Mr. Greg Farrant: Three weeks ago we did meet. My executive director and I met personally with the minister and spoke to him about our concerns about this bill and presented him with an intermediate list of what we thought should change in the bill. If you want to consider that consultation, yes.

We also met with senior staff at the ministry earlier this year—February—and had a discussion with them, although they did present it, as Ms. Ballentine indicated earlier, with what appeared to be a fait accompli: This is what the bill would look like, this is what was going to be in it, but we certainly did have discussions with them, so I want to be clear about that.

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The Acting Chair (Mr. David Zimmer): On that note, a comment, Mr. Levac?

Mr. Dave Levac: Let's just carry on with that. Thanks very much for your conversation and your offer of amendments and changes. I would suggest to you respectfully that you were heard and we appreciate that. It wasn't a fait accompli because, first of all, we did not make that commitment and we didn't say that, and quite frankly, we committed to committee hearings and we committed to hearing other people.

The second thing that I want to suggest to you is that your first suggestion around enshrining into the act—we take that seriously and it's going to happen.

Mr. Greg Farrant: Thank you, sir. I appreciate that.

Mr. Dave Levac: So that's consultation.

The Acting Chair (Mr. David Zimmer): Thank you very much for taking—

Interjections.

Mr. Greg Farrant: We appreciate this opportunity. Thank you.

The Acting Chair (Mr. David Zimmer): Thank you for presenting.

ZOOCHECK CANADA

The Acting Chair (Mr. David Zimmer): The 12:30 time slot: Zoocheck Canada, Rob Laidlaw. You'll have 15 minutes for your presentation; I'll give you a three-minute heads-up that your time's about to expire. You may or may not want to leave time for questions from the members of the committee; that's your decision. Would you introduce yourself for the record?

Mr. Rob Laidlaw: My name is Rob Laidlaw. I'm here representing Zoocheck Canada, which is a Toronto-based national animal protection organization that was established in 1984. As the name suggests, we do a great deal of our work on zoo issues and other wildlife-in-captivity issues, and that's been the primary thrust of our work since we started. In pursuit of our objectives, we engage in a wide variety of campaigns: investigative campaigns, public awareness campaigns, legislative campaigns, litigation, capacity-building programs, both here in Ontario and elsewhere in the country and around the world. We're members of the Species Survival Network and past members of the Canadian Federation of Humane

Societies, the Canadian Association of Zoos and Aquariums, and the American Association of Zoo Keepers.

My own involvement began back in the late 1970s, and I'll just give you a brief synopsis of that, because I think I'm one of the few people who have been involved in zoo issues for the last 25 years. I'm currently executive director of Zoocheck Canada. I'm a former chief inspector at the Toronto Humane Society. I've served as a project manager and technical adviser for the World Society for the Protection of Animals, primarily in Asia and Canada. I've conducted quite a broad range of welfare audits of wildlife-in-captivity facilities, designed audit processes, and organized training workshops for zoo inspections, one of them back in 2000, here in Ontario, attended by members of the Ontario government and the Ontario SPCA—and I have one coming up in Bali, Indonesia, next month for officials there. I've also spoken over the years and attended quite a number of zoo association conferences. So that's a little bit about my involvement. Like I said, I've been involved with a lot of the initiatives over the years dealing with zoo issues.

As you know, Bill 50 was partially brought about because of Mr. Zimmer's private member's bill, Bill 154, the Regulation of Zoos Act. The bill attracted a lot of attention. I actually attended a media conference at the Toronto Zoo last August, where the former minister, Monte Kwinter, spoke about the need to improve animal protection in the province. He specifically spoke about the need to deal with my pet issue, which is this long-standing issue of roadside zoos and wildlife in captivity. He actually said, "We're going to make sure that no zoo in Ontario is a rogue zoo." I'm not entirely convinced that this bill will accomplish that because there's no mention of zoos, but I do hold out some hope.

You may not realize that this issue of roadside zoos and the proliferation of wildlife in captivity in the hands of private individuals goes back quite a few decades. I mentioned that I've been involved for 25 years, but prior to my involvement, in the 1960s and 1970s, there was other activity going on. Since I started, there have been a number of initiatives. In 1982, just when I started on this issue, there was a private member's bill put forward to deal with this issue. In 1988, Ed Philip, then a member of the New Democratic Party, introduced Bill 129, An Act to regulate the Care of Animals kept for Exhibition or Entertainment. That passed second reading and then died. In response to that bill, Vince Kerrio, the former Liberal Minister of Natural Resources, announced, "In six months, we'll have tough regulations for zoos in this province"—well, 20 years later, they're nowhere to be seen. In 1990, the David Peterson Liberal government put together the animal welfare review committee that went on for four years looking at zoo, wildlife and captivity issues and other issues, and in 1994 put out their final report. It actually had some very good recommendations.

In 1997, a Conservative member of the Mike Harris government, John Parker, introduced his own private member's bill to deal with these issues. In 2000, the

Ministry of Natural Resources worked on and developed wildlife-in-captivity minimum standards for zoos that were released in 2001. Then in 2006, we have David Zimmer's Bill 154, the Regulation of Zoos Act, and now, in 2008, we have Bill 50 that is supposed to deal with these issues as well. It's gone on a very long time and I'd say it's gone on far too long.

Getting to the bill itself: We're generally supportive of Bill 50, primarily because it addresses a number of key deficiencies in the current OSPCA Act. I won't go through those. I'm sure you've heard it time and time again over the course of this week. We applaud the government for those improvements that they've included, but we do have some concerns with parts of the bill. I'm going to try not to reiterate points made by other people.

One of the concerns that we have is that we don't feel there should be exemptions to this legislation for anybody. In reading the previous deputations from July 21, it seems a number of people have already articulated their concerns about exemptions, so I won't bother to go over them with you here today, but suffice to say, we don't believe that any industry or group should be exempt from our primary core animal welfare law here in the province. If Ontario is really going to move from worst to first, you can't water down your laws with exemptions.

Let me move on to roadside zoos, which, as I said, is my pet area. We think that within the context of the bill, because there was a promise made that there should be comprehensive zoo regulations established—and like I said, there's no mention of zoos in the bill anywhere. We feel that while Bill 50, as it's currently written, may address some of the concerns that have been brought forward over the years, it certainly doesn't address them all.

We feel that there needs to be some type of regulatory regime set up within the context of Bill 50 that will deal with roadside zoos, which will require upfront regulation, a licensing component to screen out or filter, if you will, all of the people who really shouldn't be acquiring wild animals, and opening up zoos and other types of public displays. We feel there should be specific requirements attached to licences with regard to education, experience, financing etc. We feel that there should be specific standards or reference to specific standards, and those standards are available. The MNR standards that were released in 2001 are excellent, but there are all kinds of other examples all over the world, everywhere from the UK to India, that could be cookie-cuttered right into the existing Bill 50.

I also think that we need a mechanism for the closure of facilities. We don't want an entirely retroactive approach to dealing with these facilities; we need that retroactive part of a regime, but we also need that upfront regulation, that filter, so that we can keep control of what's going on in this province. It seems crazy that at the present time that doesn't seem to be factored into the equation because almost every other jurisdiction does that. They filter out the people who want to do these things so that they don't get the incompetent people, the

underfunded people, the fly-by-night people in the business that they have to deal with later. It's more cost-effective and it's better for the animals and it's certainly better for the public.

I mentioned exemptions earlier on. Because of my experience, I think I'm well placed to talk about the request by the Canadian Association of Zoos and Aquariums for an exemption. It seems that everybody is saying, "This is great. We're better than everybody else. Exempt us." I can't blame those people for saying that, I'd probably do the same if I were in their shoes, but I would urge you to not even consider an exemption for CAZA zoos. Their accreditation process is not the gold standard it's made out to be. It is their standard, but it's certainly not the gold standard, and it doesn't create a level playing field. There are better facilities in the province than CAZA-accredited facilities and there are worse facilities. CAZA is one standard that they apply to their members.

Their standard involves a peer-review process that occurs within the context of a very small community. It's one person who knows one person reviewing their facility. It's not transparent. It's not publicly accountable. There's really no recourse for public complaints within their system. It tends to be voluntary; they have conditional accreditation. I can give you one example. One of their primary requirements for accreditation is a perimeter fence around their facility to safeguard the public, so that animals that escape on the zoo property are discouraged from leaving the property. Marineland in Niagara Falls is an accredited institution, has been for many years, yet their accreditation was conditional on certain things being done. They still don't have their perimeter fence up and they are still an accredited member of the association. There are all kinds of examples like that; they're not isolated.

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The accreditation process occurs once every five years, so you've got a one- to three-day period where you're just basically getting a snapshot, and things can change. That's not an accountable system and, like I said, it's not a gold standard. So I would encourage you not to consider any type of exemption for CAZA-accredited zoos. Let's make this a level playing field with the same rules for everybody, and if somebody else has a system of their own, that should be seen as complementary to the legislation and not as duplicative or competing.

The Acting Chair (Mr. David Zimmer): You have three minutes left.

Mr. Rob Laidlaw: Okay. Just a couple of other points.

There seems to be this idea promulgated by some people who have spoken to the committee that the zoo inspection process is this really ominous thing that requires a great deal of expertise. Like I said, I've been involved in creating audit processes for all kinds of agencies, and it doesn't need to be costly; it doesn't need to be difficult. It can be accomplished in a very cost-effective, very quick way. It just depends on how you do

it. But you don't need to always turn to the zoo association and accept the system they have, because there are all kinds of other alternatives that are far more workable, far more accountable, far more cost-effective and easy to implement.

I wanted to just finish off by saying that last year the World Society for the Protection of Animals hired the Oracle company to do a poll on wildlife in captivity, and they found, in a sampling of about 1,000 people, enormous public support for regulation of zoos and for controlling all the bad operators.

We did our own poll. Just for the record, they were not people who are members of our association. We also looked at about 1,000 people, and we've just been in the process right now of tallying the results. On the sheets that you have in front of you, there are 10 questions that were part of the poll. They pretty much mirror what Oracle found. There is tremendous public support for dealing with zoo issues. I would encourage, because the government made a promise to deal with that issue and said they were going to do it through Bill 50, that this actually be done. There is strong support for properly dealing with this issue. It's 30 or more years overdue. It's absurd that such a large and wealthy province hasn't dealt with this long ago when so many other jurisdictions around the world that are far less resourced have already done so. We're the worst in the country. People are expecting something to be done. That was the promise 20 years ago; that was the promise last year. It should be done, it should be done quickly, and I encourage you to make sure that it is. Thank you.

The Acting Chair (Mr. David Zimmer): You've used up the 15 minutes. Thank you very, very much for organizing your presentation and attending today.

Mr. Rob Laidlaw: Thank you.

ANIMAL ALLIANCE OF CANADA

The Acting Chair (Mr. David Zimmer): The next presenter is the 1 o'clock slot: Animal Alliance, Liz White. Ms. White, you'll have 15 minutes to do your presentation. I'll give you a warning, three minutes, just as your time is up. You might want to leave questions at the end for members; that's your call. Introduce yourself for the record and begin.

Ms. Liz White: My name is Liz White. I'm a director of Animal Alliance of Canada. Animal Alliance has been in existence for 18 years. We're a national organization doing animal welfare and animal protection work across the country, predominantly legislative work.

I just wanted to point to the submission that we've made. The first 14 pages is our actual submission. Appendix A looks at other types of legislation internationally and does a comparative study between the US and Europe to see which produces better legislation. It provides some resources, and we can provide more of those if you need them. Appendix B is a list of exemptions from other pieces of legislation across the country. The final is a series of pictures of animals that we believe

would not be covered by this legislation, including the picture on the front cover.

Interjection.

Ms. Liz White: Yes.

I want to turn specifically to the recommendations because I know that people have been talking about a number of different issues and I don't want to duplicate those. I'm just going to go over the recommendations and expand on them a little bit. Hopefully, we'll have some time for comments.

The first thing that I'd like to say is that every single political party sitting around this table has done something really good for animals or had and produced discussions on things that were good for animals. The Tories, I might remind, did a ban on the spring bear hunt and a ban on the trade in bear gallbladders. That was really a positive initiative. The NDP had a significant discussion on whether animals should be tested for cosmetic and product-testing purposes when they were in power. And the Liberals have talked about a number of different issues, including roadside zoos, and have put those issues forward in a very positive manner. This is a reminder that these issues cut across party lines and that, in fact, every single party around here has done a really good job at some time or other. And that's what we're asking you to do today, to take a look at this piece of legislation a little bit differently. To repeat, but to expand a little bit differently, we're asking that all the exemptions be removed from both the act and the regulations.

We've done a significant review of the literature of the regulations that cover research animals, farm animals and wildlife, and none of those pieces of legislation, in any significant manner, provides protection for those animals, in those particular pieces of legislation, for individual animals that are being subjected to a cruel situation. So there is no protection under the legislation that governs those particular entities, and this piece of legislation says, "And by the way, you're not going to get protection in this piece of legislation either." When you add up the numbers of animals that we're talking about, it's about a quarter of a billion in Ontario that are essentially exempt from any coverage in this piece of legislation. So I'm asking you to consider that particular situation.

The second thing is—and I don't need to spend a lot of time on this—on section 6, we're asking that that be deleted and that the rewording on that particular section, on the words "humane society," that doesn't need—We're asking that you amend the Animals for Research Act, as you did for the Dog Owners' Liability Act, and remove subsection 18(9) that prohibits the OSPCA from investigating any complaints of cruelty in research laboratories.

In the Animals for Research Act, there is a mechanism by which somebody's licence can be removed if there is an animal cruelty situation. The question is, how would one ever know that there's an animal cruelty situation, since the very body that says, "This is what is cruel and what is not," is not allowed to go into a research labora-

tory? I'm asking that that really needs to be amended and clarified. I think that if you don't, you need to be very clear about what responsibility a veterinarian has on reporting an animal cruelty incident in a supply or research facility. It is completely unclear to me, given that veterinarians have to report, to whom do they report? Is it somebody up the chain, or the people who are supposed to be doing the cruelty investigation who cannot go into the research laboratory, even if the complaint comes?

We're asking that all government ministries and government agencies that are in possession of animals also have to comply with this piece of legislation. It is unclear to me that that is the case in this piece of legislation.

We're asking that peace officer powers be extended to other law enforcement bodies, such as municipal animal service people, to increase the enforcement capacity in the province of Ontario. It is clear to me that there are insufficient animal cruelty inspectors in the province through the OSPCA. We need to be able to broaden that, and I think that this is a good way to go because they're already implementing enforcement in their own municipalities.

Finally, most controversial, I think, is that I don't think that the OSPCA should be in charge of doing the enforcement. I think that there's a serious problem with that. I think that if the province was serious about animal cruelty investigations, they'd have a police officer body that would be in charge of doing animal cruelty investigations, and they would bring in the OSPCA as experts in the area of distress. I say this because the OSPCA, I would argue, has conflicting ideas between enforcement and what they say in their policy, which presents a real problem for people who are subjects of the enforcement.

1220

The second thing in this particular situation is that they are a private entity and there is a serious problem with transparency and openness in a process with a private agency. So we're recommending that you set up an advisory committee that would look at changing this particular aspect of it and that you fund the OSPCA to do the work they do as experts in the area, but that you actually set it up as an OPP animal enforcement organization.

Those are my recommendations. I leave it open for questions if there are any.

The Acting Chair (Mr. David Zimmer): We have about three minutes per caucus, starting with the Conservatives.

Mrs. Christine Elliott: I've just had a quick look through some of your material, and it appears that you have some concerns just with respect to the whole concept of agricultural practices and so on, and presumably with some of the hunting provisions as well. What would you propose to do under this new legislation, then? Would you want that to be opened up as well?

Ms. Liz White: These bodies are governed by their own legislative regime, both of them. I don't think that we ought to provide additional—I would say, beyond

protection that their own regulatory regime provides, that these exemptions are not necessary. There isn't a judge in the land, I would argue, who would take somebody to court over complying with the Milk Act or the livestock act or all of the other acts. There isn't anybody who's going to do that. It's for the individual animals. You'll see a calf that is in serious condition; pigs as well. These are animals that, by virtue of this exemption, cannot be dealt with under this piece of legislation, even though those individual animals are being treated in a manner that ought not to be the case, and I would say in some cases outside what is allowed by regulation. But because it's a much broader exemption than that, those animals will receive no protection. I think you should leave the exemptions out. Whatever coverage and protection they have under their own regulatory regime should stay the test of time.

Mrs. Christine Elliott: So you would have a problem with just normal farm practices, then, presuming that normal farm practices would be in compliance?

Ms. Liz White: I'm saying that normal farm practices are covered by a whole raft of regulatory mechanisms. Those are all in place now. Farming is going to take place from now until I'm well gone off this earth, and what I'm saying is that they are already regulated in those particular situations. Why are we saying, "Above and beyond that, by the way ..."? Any of the animals here cannot be prosecuted under this piece of legislation, regardless of what happens to them. How would you know what would happen to those animals? You couldn't know, by virtue of them being exempt.

Mrs. Christine Elliott: I think some of the concern that has been registered with this committee, however, is that normal practices that are already being carried on might be in some jeopardy if they weren't protected specifically by this legislation.

Ms. Liz White: I think those normal, everyday practices are protected in their own pieces of legislation in the codes of practice, and that's what the industry uses to deal with it. They have their own mechanisms to make sure that farmers and stockyards and slaughterhouses comply with their regulation. What we're saying is that that in no way addresses individual animals that are subjected to cruel treatment within those practices. By virtue of exempting them, you exempt all protection for those animals as well.

The Acting Chair (Mr. David Zimmer): Mr. Kormos, three minutes.

Mr. Peter Kormos: Thank you, ma'am. But I read in your submission that you're very critical of the codes.

Ms. Liz White: Very critical of the codes. Absolutely.

Mr. Peter Kormos: Yes, and that's very clear, but the codes are developed by producer groups, representatives of farm groups, veterinarians, animals scientists, federal and provincial governments, and it's done in cooperation with the Canadian Federation of Humane Societies.

Ms. Liz White: Yes.

Mr. Peter Kormos: Okay. Without being judgmental about the codes, it seems to be a pretty representative

group, including the Canadian Federation of Humane Societies. Is this not a balanced group?

Ms. Liz White: Well, I think no, it is not a balanced group. There's all the industry and one humane group, so in fact it is not a balanced situation.

Secondly, many of the codes of practice are relatively old, have not been updated and do not reflect changing times. Thirdly, they're voluntary. I think there's a real problem with voluntary codes of practice because if somebody decides not to do them, there's no regulatory ability to deal with those particular situations.

Mr. Peter Kormos: Far be it for me to prejudge the legislation—and I'm assuming very much that it's going to pass—but it makes reference to farm practices. Wouldn't it be reasonable for these codes to be interpreted as farm practices or as one articulation of farm practices?

Ms. Liz White: I think that if there were ever a court challenge on any of this stuff, that would be raised in court. I think it's extremely short-sighted to incorporate the codes of practice into a piece of legislation that is to protect animals from cruelty, because those codes of practice are about operational issues as opposed to cruelty issues. They're broader, systemic animal issues; they do not deal with the individual cases of cruelty. If you have five chickens in a battery cage, and you meet a farmer who has seven, is that cruel? Will this cover it? Does that mean that whatever the code of practice says—

Mr. Peter Kormos: I hear you. The abattoir is a very unpleasant place for people who don't have the stomach for it.

Ms. Liz White: The abattoir is a very good example, where there's use of electric prods, even though it's recommended against by some of the industry. Is that cruel? Would this be covered in this piece of legislation? I suggest not, because it's a common practice. It's not absolutely said that that should not happen.

Mr. Peter Kormos: On slaughter day, there's a lot of squealing and hollering and banging and thumping—and then we go to the meat market and have our BBQ.

Ms. Liz White: Three days ago I was at a slaughterhouse—because I wanted to be there because I was coming here—to watch pigs being offloaded from a truck. They were using electric prods through a tiny door so that the pigs were climbing over each other and falling. The question is, why would you do that?

Mr. Peter Kormos: Because you want that Easter ham.

Ms. Liz White: That may be the case, but what we're saying here is, if you're going to do that, you have to be humane. To exempt people from this is not an option, I would argue.

The Acting Chair (Mr. David Zimmer): On that note, we'll move to the Liberals. Three minutes, Mr. Levac.

Mr. Dave Levac: Thank you, Ms. White. The codes, as you pointed out, are changing, and in the world there are some advancements and changes in those codes and standards of care. The consumer sometimes dictates that

because they want free-range chickens and all of those types of things that are happening.

One of the deputants was saying, "But my code is going to be my code, and therefore I don't want anybody telling me what to do with my animals," but that's not going to be the case with this legislation. My understanding and interpretation of this legislation is that those codes that are presently accepted as normal practice on farms, on abattoirs and everywhere else—those particular codes for farm animals are going to be exempted, but the OSPCA would have authority if those codes were not met. Is that your understanding?

Ms. Liz White: I understand that that may be the case. The problem is, if all of these animals are exempt, who's going to know what is actually going on in the institutions? Because it isn't going to be the OSPCA that is going to be there; it will be on a complaint basis.

Just so you know, in a battery op, this is what a chicken lives on for its entire life—this size, okay? Those are the codes of practice. That's what we're saying is okay. That's what we're saying is perfectly humane. I would put to you that it is not humane. It is a terrible thing to put an animal through. I would say to you as well that if we are going to use animals for our purposes—and they give the ultimate sacrifice for us, which is their lives—they ought to be treated in the most humane manner before that happens. This piece of legislation does not do that. It provides very, very broad exemptions that are not going to protect the animals that are in the largest numbers in this province.

Mr. Dave Levac: What we're talking about is an enforcement piece on that side—

Ms. Liz White: I understand that.

Mr. Dave Levac: —and in terms of the protection that you're talking about, you indicated that in the animal research section, that's the code that is taken care of. There is not a code; it's a law.

Ms. Liz White: No, there is no legislation in the Animals for Research Act—just so I'm very clear—that provides for an ability, where an animal is being treated cruelly, for anything to be done about it, other than the institution loses its licence. So the animal can't be dealt with at the time that the suffering occurs.

1230

Mr. Dave Levac: I agree with that, because the bill doesn't allow the OSPCA to have influence in that particular act. But for the other two that we are talking about, farm animals and wildlife, if the standards are not met—even though you and I might differ or you might have a different opinion of what those standards are or their validity—the enforcement side to that, which allows the OSPCA, if there is cruelty, to even use warrantless entry to protect that animal if it's in distress.

The Acting Chair (Mr. David Zimmer): On that note, we've just passed the 15-minute mark.

Mr. Dave Levac: Thank you for your presentation.

The Acting Chair (Mr. David Zimmer): Thank you very much for attending today and organizing your presentation for this committee.

Ms. Liz White: Thank you. If anybody has any questions, feel free to call.

The Acting Chair (Mr. David Zimmer): May I just have the members' attention for a second? I just want to canvass the list, because there were a couple of no-shows and they may be here. Windsor Animal Rescue? Wendell Palmer?

With respect to the 12:15 slot, Wendell Palmer, here is the situation. Mr. Palmer sent a message to the clerk at 12:20 p.m. advising that he was coming in from Niagara Falls, that he had just entered the Gardiner Expressway and his expected time of arrival here was 20 minutes. He said he was detained in traffic coming in from Niagara Falls. Does the committee wish to recess and give him some time to get here?

Mr. Garfield Dunlop: Is he the last one?

The Acting Chair (Mr. David Zimmer): He's the last one.

Mr. Peter Kormos: We've had occasion to wait for each other from time to time. He's coming in from the Falls. That stretch of the QEW can be awfully busy on a bright, sunny summer day, and Lord knows we've had Biblical proportions of rain for a week, so let's wait.

The Acting Chair (Mr. David Zimmer): The Conservative side?

Mr. Garfield Dunlop: Agreed.

The Acting Chair (Mr. David Zimmer): The Liberal side?

Mr. Dave Levac: Mr. Chairman, may I also indicate that we keep in contact with him to see whether or not he's decided to turn back, which has happened in the past—so not to keep us going. Respectfully, I do agree with Mr. Kormos but suggest to you that we keep in contact and if there's any indication he's going to be longer than the original 1 p.m., we adjourn.

Mr. Peter Kormos: If he's on the Gardiner, he's just looking for a parking spot.

Mr. Dave Levac: Probably.

The Acting Chair (Mr. David Zimmer): All right, we'll recess for 10 minutes, till 12:45.

The committee recessed from 1232 to 1245.

The Acting Chair (Mr. David Zimmer): Okay, so here's the update: Mr. Palmer is just down at the desk, going through legislative security, and will be up here in a minute or two, I guess. Perhaps you could go down and walk him up here, so that he doesn't waste any time wandering around the corridors.

The committee's in recess, and that's just so Hansard can shut down.

The committee recessed from 1245 to 1251.

WENDELL PALMER

The Acting Chair (Mr. David Zimmer): Mr. Palmer, come up here and have a seat. Welcome to the justice committee. We did hold matters down to accommodate you, so we'll get started in a minute or two. You will have 15 minutes to present. I will give you a three-minute heads-up when your time is about to expire. You may wish to leave some time within your submissions at the

end for questions from this committee, but that's your call. If you would introduce yourself for the record now, you can begin your presentation.

Mr. Wendell Palmer: I'm Wendell Palmer, Niagara Falls. I need my material to—

Interjection.

Mr. Wendell Palmer: Thank you.

The Acting Chair (Mr. David Zimmer): All right. You can begin.

Mr. Wendell Palmer: I'm beginning with the sheet that says "Notes for Bill 50—Standing Committee on Justice Policy" in the top left-hand corner.

The following several topics concerning the Ontario Society for the Prevention of Cruelty to Animals—the OSPCA—are very brief concerns that I believe need to be addressed before the OSPCA is given more police powers. I believe that the present powers greatly exceed those needed to do a much better job of preventing cruelty to animals. I am prepared to elaborate on each of these.

(1) There is a need for a strong and respected OSPCA: —to deal with the few hard cases of cruelty that occasionally occur;

—to counter the very serious threat of animal rights;

—to counsel animal owners in the correction of inadequate care and cruelty incidents so that adequate and optimum care are the more common conditions. OSPCA strength and respect will come through knowledgeable and experienced agents rather than through harsher laws and more incrimination.

(2) SPCA agents who deal with animal owners should have an education equivalent to a two-year college diploma in animal care, veterinary care, animal behaviour and people skills. Practical experience on an animal farm or kennel is also essential. The SPCA mandate is not to control people, but to relieve suffering of animals where it occurs. But most agents can't recognize animal suffering, or the lack of it, and imagine it to be the same as human suffering. The OSPCA has been given a grant of \$500,000 for education, and it should all be spent on its agents.

(3) Resources are seriously squandered through inappropriate actions. The mandate to investigate all complaints should not always mean that two agents must drive to the location of the complaint. All poorly kept or injured domestic and wild animals do not need to be transported from their home to SPCA facilities. Almost always, this is exactly the wrong action to take for the animals' welfare, but it makes work and brings in income through boarding and the public's sympathetic donations.

(4) Vengeance, blackmail and bullying are much too common actions against animal owners. These are part of my OSPCA experience. Accountability is required.

(5) Cruelty myths are perpetuated to gain public sympathy and encourage donations. Being duped is perhaps the greatest offence to the public. The 15,000 yearly incidents of cruelty reported by the OSPCA are actually merely incidents recorded on cruelty reports to be investigated by agents. After investigation, these come down to 15 or less, that is, 0.1% of reported incidents.

The other 99.9% should be found to be mistakes in the interpretation of the situation by the public, malicious reports or cases of temporary inadequate care. Even true cases of cruelty are overblown for public appeal; the case of the Windsor dog which had its ears cropped is a perfect example.

Inadequate care should not be considered cruelty unless it persists. Educated, experienced SPCA agents will be able to work with these situations until they improve to adequate status, which is the level required by law and generally recommended in codes of practice for each animal group. Optimum conditions can only be achieved for some conditions some of the time. The terms "adequate," "inadequate" and "optimum" are subjective terms that should not cause knowledgeable, experienced persons concern in interpretation. Interpretation is often the major difference between animal owners and SPCA agents.

I want to move to my letter, the one that's got my scrawl up on the top that says, "Note—This e-mail was printed in Ontario Farmer...." It says:

"The philosophy under which a person or organization operates influences all activities. It is unfortunate that the practising philosophy of the OSPCA, in fact most SPCAs, is one of 'incriminate if possible.' This leads to almost every dishonest action an individual can do—trespassing, lying, fabricating evidence, deceit, stealing, revenge, and assault. (Did I miss some? Do you want specifics? Read between the lines of Ian Cumming's October 23, 2007, article)"—that would be in Ontario Farmer. "Fortunately most OSPCA agents have the moral fortitude to avoid these bad actions and go about the necessary duties of their profession in the appropriate manner. This is no doubt difficult, since for more than a decade their training, minimal as it is, has apparently fostered these behaviours. Obviously some OSPCA agents refuse to do what their superiors expect of them and hand in their uniform, badge, and flak jacket. (Do you want names?)

"Now, what philosophy should govern the OSPCA? Does a 'helping' philosophy for animals and their caregivers seem reasonable? If so, shouldn't the preference for an animal to be 'home,' and any necessary change in its care be facilitated there, be the first consideration? Would there not be a long-term gain to society if the animal owner received instruction in proper care, if that is what is lacking, or food and other materials, if these were the cause of the animal distress? To whom would these acts of kindness and compassion go unnoticed? It is certain that this would be a much less expensive approach than calling for police backup, hiring trucks to haul away animals for boarding in a place strange to them, then using court time, space, and lawyers at the public's expense. And this is without consideration of the animal owner's stress, time and expense, which is also a cost to society.

1300

"You might look to Niagara Falls, where city council, under the leadership of Mayor Ted Salci and Council-

woman Janice Wing, 'is reviewing the way animal control is conducted.' A consultant's report suggests 'taking away from enforcement and becoming more service oriented.'" These quotes are from Niagara This Week, October 26, 2007. "This approach can't help but be successful in all ways except the building of the OSPCA empire.

"Respectfully submitted,
"Wendell Palmer."

The other letter is not one I had a great deal to do with, but it's written by the Niagara South Federation of Agriculture and sent to Mr. Jim Sykes, chair of the Ontario SPCA board. This is what it says:

"Dear Mr. Sykes,

"The Niagara South Federation of Agriculture is concerned about animal welfare and the role that the OSPCA plays in it.

"We respectfully make the following recommendations regarding your investigations department:

"Staff should be required as a matter of policy to inform animal owners of their legal rights. For example, the appeal process to the Animal Care Review Board and that an owner has a right to bring in his own veterinarian before an animal is destroyed.

"Staff should practise strict adherence to biosecurity protocol. The spreading of pathogens from one location to another may cause needless suffering to animals.

"Staff should pursue a policy of co-operation whenever possible and lay charges only when necessary.

"Staff should receive better training. This should be an ongoing process. Staff should be properly educated to recognize and respect modern farming methods. In addition, instruction in improved people skills should be pursued.

"Staff should be held accountable for their actions. We trust that actions found to be in violation of the Ministry of Community Safety and Correctional Services' mandate to provide law enforcement that is 'safe, secure, effective, efficient, and accountable' will not be tolerated by the OSPCA.

"Thank you. We hope you find our recommendations constructive and helpful. That was our intention.

"Yours truly,

"The board of directors of the Niagara South Federation of Agriculture, Joe Schonberoer, president."

I am prepared to take any questions or comments you may have.

The Acting Chair (Mr. David Zimmer): That leaves three minutes per caucus, beginning with the NDP.

Mr. Peter Kormos: Thank you, Mr. Palmer. Tell us about yourself. Your perspective is arrived at from what type of background?

Mr. Wendell Palmer: From my background?

Mr. Peter Kormos: Yes.

Mr. Wendell Palmer: I was born and raised on a farm and went to agricultural college in Nova Scotia and Ontario Agricultural College. I have a four-year honours degree from there—actually, it's from U of T—and also a master's of education from U of T. I have taught

biology in high school for 34 years, at which time I had a science club and that always involved the local—

Mr. Peter Kormos: But you're interested in the OSPCA and in animal welfare.

Mr. Wendell Palmer: I have always been, yes.

Mr. Peter Kormos: But you inform us of certain styles by the OSPCA. How do you arrive at this information?

Mr. Wendell Palmer: Most of this has been my direct experience.

Mr. Peter Kormos: How is that?

Mr. Wendell Palmer: You want me to say that they raided me in 2003?

Mr. Peter Kormos: No. We've got to understand your perspective, how you arrived at this. How do you reach these conclusions?

The Acting Chair (Mr. David Zimmer): You can speak very frankly here.

Mr. Wendell Palmer: I know: Hansard's listening. I have always worked with the OSPCA, and what happened is that I was subjected to their vengeance—

Mr. Peter Kormos: Okay, so fair enough.

Mr. Wendell Palmer: —and we had this raid and it snowballed from there and I said, "This can't happen to other people."

Mr. Peter Kormos: So you had personal experience with the OSPCA.

Mr. Wendell Palmer: The worst day of my life.

Mr. Peter Kormos: As a subject of one of their investigations.

Mr. Wendell Palmer: That's correct.

Mr. Peter Kormos: All right. You talk about a need to be more co-operative and collaborative with the community. What are you talking about? With farmers, with domestic pet owners?

Mr. Wendell Palmer: You're talking about the actions of the SPCA toward—

Mr. Peter Kormos: Yes.

Mr. Wendell Palmer: Yes. It's for sure that they would educate better and get much further if their philosophy was to help the animal owner and the animals. They have not focused on the helping of the animals at all, but rather have focused on the gaining of money.

Mr. Peter Kormos: I suspect that varies from community to community.

Mr. Wendell Palmer: I expect it does.

Mr. Peter Kormos: I've mentioned Bernie Webb before; he was the director of the Welland SPCA. I don't know if you know Bernie—

Mr. Wendell Palmer: I've heard of him; he's a good man.

Mr. Peter Kormos: Bernie Webb was brilliant. Bernie found doghouses for people; he helped folks get dog food and cat food.

Mr. Wendell Palmer: That's exactly what should be done.

Mr. Peter Kormos: So that's what you're talking about.

Mr. Wendell Palmer: That's right.

Mr. Peter Kormos: So you're saying the OSPCA takes a very adversarial perspective.

Mr. Wendell Palmer: When it's not necessary, that's right.

Mr. Peter Kormos: A very litigious perspective.

Mr. Wendell Palmer: That is correct.

Mr. Peter Kormos: A very prosecutorial perspective.

Mr. Wendell Palmer: That is correct.

Mr. Peter Kormos: A very punitive perspective.

Mr. Wendell Palmer: Correct.

Mr. Peter Kormos: And they're self-serving.

Mr. Wendell Palmer: Absolutely.

Mr. Peter Kormos: Mr. Noble, behind you, do you think he's nodding in affirmation? Or is he shaking his head this way? Which one?

Mr. Wendell Palmer: I expect he is nodding in affirmation.

Mr. Peter Kormos: Thank you, sir.

The Acting Chair (Mr. David Zimmer): That's three minutes. We'll move to the Liberals.

Mr. Dave Levac: Thank you for your presentation, Mr. Palmer. In your presentation, you mentioned training and identified correctly that \$500,000 has been given by the government for the purposes of the enforcement part. You're absolutely correct. Your concern was whether or not all of the money would be spent in that area, and the short answer is that I've been assured, and I've asked this question, that of the monies that have been sent, all of it is going to go towards agent and inspector training. It's also going to improve and extend the training on an ongoing basis, from two weeks, which it is presently—contrary to somebody who said that it was two days; that was a while ago. It's now two weeks, it's going to extend to four weeks, and it's going to be equal to a special constable in the police services.

Mr. Wendell Palmer: But not to two years, as I would recommend.

Mr. Dave Levac: Police officers are trained for six weeks. So quite frankly, there are two weeks in there that are not used for the purposes of enforcement. You're correct: It's not two years, but police officers only get six weeks training before they're hired.

Mr. Wendell Palmer: Why are we relating OSPCA agents to police officers? They're two entirely separate things.

Mr. Dave Levac: Well, no, they're not quite, because of enforcement. Quite frankly, almost everybody else who made a deputation is talking about it as another police force. In terms of the comparison, I'm just letting you know that it's going to be increased.

You made some very interesting observations with regard to the direction of the OSPCA. In some cases, you say that this is what they do, in terms of blackmail, vengeance, bullying being much too common, and then you turn around and say, "But most agents don't do that." Is that a fair interpretation of what you said?

Mr. Wendell Palmer: I think that's fair. I would also like to say that the three people at the top of the OSPCA now are entirely different than they were in the previous

10 years. They are definitely on the right track. It's just that it's hard to get people on the inside to actually make the changes necessary.

Mr. Dave Levac: That's a fair statement. Thank you, Mr. Chairman. I'll turn it over.

The Acting Chair (Mr. David Zimmer): Thank you, Mr. Dunlop.

Mr. Garfield Dunlop: Mr. Palmer, thank you for being here. I think as we've gone through these hearings, it's interesting that we sum up with some of the comments you've made today. I think this committee and the government have some very, very difficult decisions ahead of them, because you're not the first person who's made the kind of comments you've made here today. Quite frankly, hardly anyone has been happy with the bill. We've had a lot of—

Interjection.

Mr. Garfield Dunlop: Well, no. Let's face it, everyone has wanted to make amendments to this bill, and that is clear. I hope you don't think that this bill is what would be passed in the House. I'm probably seeing here today, and throughout the course of the week, that possibly 150 amendments could be made to this particular bill. I hope we have an opportunity to discuss some of those amendments because we'll be putting a lot of them forward ourselves, and I hope the government would be putting a lot of them forward as well. Quite frankly, it's badly flawed. You know that, and you've pointed that out. We've heard from different organizations. We've got a lot of work to do to make sure that we don't continue down some path where it's passed by a majority government, and they turn around and five years or two years or six months down the road we start hearing these horror stories worse than ever. That's my fear right now, that that's what's going to happen. So I just want you to—

Mr. Wendell Palmer: Without accountability, it's certain to happen, because power corrupts.

The Acting Chair (Mr. David Zimmer): On that note, we're at the 15-minute mark. Thank you very much for coming in from the Niagara area and presenting to this committee.

Mr. Wendell Palmer: Thank you very much.

1310

Mr. Dave Levac: Point of order, Mr. Chairman: Before we adjourn, I just wanted to make a comment. I hope this would—not to say that other comments couldn't be made, but on behalf of all the committee members who were subbed in and those who have stayed for the whole thing, I thank and deeply appreciate the hard work behind the scenes of the clerk and her staff, for the arrangements made and for the good work that they've done in providing us with the materials. I want to thank them very much on behalf, I hope, of all of us, but obviously not to say that anyone shouldn't say that as well.

It's a tremendous amount of work to do this kind of travelling thing and to put all of those organizational things together, and being as flexible as they had to be over the last—except for the turbulence that they allowed between London and Ottawa. I wanted to just offer my

thanks and gratitude on behalf of all of us for the great work that the staff have done, and also thank all of the opposition members and the government members for the attentiveness that they gave all the deputants. I appreciate it very much. It was a very good, worthwhile exercise.

Mr. Peter Kormos: Chair, if I may join with Mr. Levac in those comments, and now add to the workload of legislative research. I want to be sort of general about this, rather than specific. We've heard some comments about the types of complaints that are received by the OSPCA, investigations and then charges actually laid. If it is possible, please obtain for us some sort of profile of exactly how many prosecutions there are in the province—

Mr. Dave Levac: We gave it. That was asked of by myself and approved by the opposition. You weren't here, but it was approved by the opposition. I gave them a sheet that outlined those specific statistics that you're talking about in terms of the charges laid, the CRA piece, right down from the—

Mr. Peter Kormos: So we've got a profile? Okay.

The Acting Chair (Mr. David Zimmer): I believe that was read into Hansard.

Mr. Dave Levac: That was read into Hansard as well.

Mr. Peter Kormos: Well, there. Mr. Charlton is relieved of that particular duty. That's not the end of it, though, sir. What I'd like, and this may well have been addressed already by the committee, is a breakdown of this—look, let me be very candid—conflict between the Toronto Humane Society and the OSPCA. The OSPCA appears to be the dominant operation of animal protection in communities across the province. Has there been any information about where the OSPCA is, as compared to alternate organizations like THS? If we can get some sort of overview of that, if it hasn't been done

yet, that might be helpful to take a look at who's doing what where.

Mr. Dave Levac: It was anecdotally said, but I think a piece of paper would be helpful; I agree.

Mr. Peter Kormos: I appreciate that.

Mr. Garfield Dunlop: I just wanted to echo what the parliamentary assistant has said. Susan, congratulations on a job well done this week. We'll get ready for legislative counsel to help us a lot.

Mr. Peter Kormos: If I may, Chair, I want to suck up to the staff one more time, because they're inevitably valuable when you need them. But I've got to tell you that the Chair who never disappoints, Mr. Zimmer, the member for Willowdale, has demonstrated some real skill and has managed the portions of this week that I've been able to attend, and I remain in awe of you, Mr. Zimmer.

Mr. Dave Levac: Oh, my God. Write that Hansard, blow it up into a scroll and hang it in your office.

Just one more comment: I was remiss in mentioning the ministry staff, as well. They've been helpful, because I did request—and it was accepted by the opposition—a briefing, as well, for some of the points that were being made to ensure that everyone had the right information. I'm told that the staff would make themselves available for continuing to do that, if there are any other questions. I thank them for their hard work as well.

The Acting Chair (Mr. David Zimmer): Just let me remind members that the deadline for amendments is Monday, August 11, at 3 p.m., and clause-by-clause will be August 18 at 10 o'clock for the day.

Thank you. This committee is adjourned.

The committee adjourned at 1313.

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First Session, 39th Parliament

**Assemblée législative
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Première session, 39^e législature

**Official Report
of Debates
(Hansard)**

Monday 18 August 2008

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des débats
(Hansard)**

Lundi 18 août 2008

**Standing Committee on
Justice Policy**

Provincial Animal
Welfare Act, 2008

**Comité permanent
de la justice**

Loi ontarienne de 2008
sur le bien-être des animaux

Chair: Lorenzo Berardinetti
Clerk: Susan Sourial

Président : Lorenzo Berardinetti
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
JUSTICE POLICYCOMITÉ PERMANENT
DE LA JUSTICE

Monday 18 August 2008

Lundi 18 août 2008

*The committee met at 1008 in room 228.*PROVINCIAL ANIMAL
WELFARE ACT, 2008LOI ONTARIENNE DE 2008
SUR LE BIEN-ÊTRE DES ANIMAUX

Consideration of Bill 50, An Act to amend the Ontario Society for the Prevention of Cruelty to Animals Act /
Projet de loi 50, Loi modifiant la Loi sur la Société de protection des animaux de l'Ontario.

The Vice-Chair (Mr. Jeff Leal): I want to bring this meeting of the Standing Committee on Justice Policy to order.

First of all, I want to acknowledge the great work of David Zimmer, who filled in for me as Chair during deliberations and hearing the delegations at various sites across the province, and I really want to thank him for his great work. The report I have is that everything went extremely smoothly, delegations got to make their presentations, and there were in-depth questions asked by members of the committee. So, David, I want to thank you for your efforts.

Mr. David Zimmer: Thank you, Mr. Chair. There was never any doubt.

The Vice-Chair (Mr. Jeff Leal): Never any doubt.

We're going to go through clause-by-clause deliberation and consideration this morning, but first of all, we had a number of late amendments that came in. I understand there's agreement that we'll accept them—Ms. DiNovo, Mr. Dunlop?

Mr. Garfield Dunlop: Dunlop.

The Vice-Chair (Mr. Jeff Leal): Same as the tires. And the government—

Mr. Dave Levac: Mr. Levac.

The Vice-Chair (Mr. Jeff Leal): I know. I've been away from it for a while, you see. You get a little rusty.

The first item is, are there any comments, questions or amendments to any section of the bill, and if so, which section? Mr. Levac.

Mr. Dave Levac: I move that subsection 1(1) of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 1 of the bill, be amended by adding the following definition:

“accredited veterinary facility” means a veterinary facility as defined in the Veterinarians Act that is accredited under that act.”

We accept that.

The Vice-Chair (Mr. Jeff Leal): Comments or questions? All in favour? Carried.

Mr. Dunlop.

Mr. Garfield Dunlop: I've just got to get organized here, for sure. These are not easy to do.

The Vice-Chair (Mr. Jeff Leal): We'll give you a moment.

Mr. Garfield Dunlop: I move that the definition of “distress” in subsection 1(1) of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 1 of the bill, be struck out.

I've done that because in my following motion I have a new section which defines “distress” more fully.

The Vice-Chair (Mr. Jeff Leal): Comments or questions? Mr. Levac.

Mr. Dave Levac: The government will not accept this particular definition, and the rationale behind our not accepting it is that it does remove the current definition of “distress.” I do know that the PC Party will be offering us a new definition, but we will express our concerns after that about their definition.

The current definition of “distress” is one of the things that works very well under the present act, and it has proven effective in education, prevention and enforcement, and it's been supported by the courts for decades. Veterinarians' assessments of the animals are used in investigations to support any contention that the condition of distress exists. It calls into question whether or not the veterinarians actually know when an animal is in distress. The OSPCA investigators are trained to recognize distress, veterinarians diagnose distress, and that is the basis for their good working relationship. We believe that removing this and adding the one that's being proposed will break that relationship up.

The Vice-Chair (Mr. Jeff Leal): Ms. DiNovo.

Ms. Cheri DiNovo: I just wanted to say that I and the New Democratic Party would like to see the broadest definition of “distress” and not a more narrow version that the Progressive Conservatives bring forward, so we're going to be voting against this motion.

The Vice-Chair (Mr. Jeff Leal): Any further comments or questions? All in favour of this amendment? Opposed? It's defeated.

Mr. Levac.

Mr. Dave Levac: I move that the definition of “veterinary facility” in subsection 1(1) of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 1 of the bill, be struck out.

That removes the definition of “veterinary facility,” and it’s linked to the previous accepted motion. The veterinarians’ college has asked for this distinction to be made. This ensures certainty. The veterinary facilities do not require CVO’s accreditation to remain subject to the OSPCA’s jurisdiction in these situations—facilities that only deal with animals owned by the employer, such as a large riding establishment not open to the public. The principle behind the veterinary exception is that the excepted facilities are fully regulated by the Veterinarians Act, which the CVO administers on behalf of the Ministry of Agriculture, Food and Rural Affairs. Therefore, only the CVO-accredited facilities will get this exception.

The Vice-Chair (Mr. Jeff Leal): Further comments or questions? All in favour of this amendment? Carried.

Mr. Dunlop.

Mr. Garfield Dunlop: I move that section 1 of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 1 of the bill, be amended by adding the following subsections:

“Animal in distress

“(3) Subject to subsection (4), for the purposes of this act, an animal is in distress if it is,

“(a) subjected to conditions that, unless immediately alleviated, will cause the animal death or serious harm;

“(b) subjected to conditions that cause the animal to suffer acute pain;

“(c) not provided food and water sufficient to maintain the animal in a state of good health;

“(d) not provided appropriate medical attention when the animal is wounded or ill;

“(e) unduly exposed to cold or heat; or

“(f) subjected to conditions that will, over time, significantly impair the animal’s health or well-being, including,

“(i) confinement in an area of insufficient space,

“(ii) confinement in unsanitary conditions,

“(iii) confinement without adequate ventilation,

“(iv) not being allowed an opportunity for adequate exercise, and

“(v) conditions that cause the animal extreme anxiety or distress.

“Accepted activities

“(4) For the purposes of this act, an animal shall not be considered to be in distress as a result of any treatment, process, or condition that occurs in the course of any of the following accepted activities:

“1. Activities carried on in accordance with the Fish and Wildlife Conservation Act, 1997.

“2. Activities carried on to control pests or feral cats or dogs.

“3. Activities undertaken by a farmer in accordance with veterinary procedures or treatment, whether or not under the supervision or orders of a veterinarian.

“4. Activities that conform to national codes of practice related to standards of care for animals.

“5. Activities that conform to reasonable and generally accepted practices of agricultural animal care, manage-

ment or husbandry, including livestock or poultry production.

“6. Activities carried on with respect to reasonable and generally accepted practices of farm animal use or food production.

“7. Activities carried on with respect to a prescribed class of animals or animals living in prescribed circumstances or conditions, or prescribed activities.”

What I wanted to add to that was that we had a number of our stakeholders who made deputations who wanted a more detailed accounting of distress in animals, groups like the Ontario Federation of Anglers and Hunters, the OFA, etc. We’ve heard from them, and we felt that this was where the amendment had to be made. I understand that the government won’t be supporting it, but—I’m sorry, number 7 that I just spoke of, we would just delete that, and from the Hansard as well. We withdraw that.

Anyhow, I just wanted to add that we wanted a more detailed definition of “distress.”

The Vice-Chair (Mr. Jeff Leal): Ms. DiNovo, please. Just for the record, it does end on 6.

Ms. Cheri DiNovo: Yes. I see that. Just for the record, we in the NDP are going to be voting against this amendment. But again, we heard from the same deputants and wanted to express concern that it’s not so much the definition of “distress” but the way that the law has been handled and the way that “distress” has been interpreted by OSPCA agents at various times, and that just speaks to the training of OSPCA agents. We are going to be attaching a letter to the end of this, talking about the OSPCA, the way it does business and the training, but we want to see the broadest definition of “distress.”

The Vice-Chair (Mr. Jeff Leal): Mr. Levac, please.

Mr. Dave Levac: Just to kind of come back to the point that I made earlier when we talked about the definition of “distress,” the situation that we did hear—and to Mr. Dunlop’s credit, recognizing that there were some concerns—through some of the deputants, that there was possibly an agenda attached beyond the definition of “distress,” as opposed to the workings of this definition. We honestly believe that this particular piece that’s being proposed as a substitute removes what I had originally talked about in terms of the partnership that’s in existence with the courts and how “distress” is used, through working with the OSPCA and veterinarians and to acknowledge the concern that was raised with training and acknowledge the concerns that were raised with the application. We will make it clear later, but I think we did repeat it earlier in the deputation, that the chief inspector will be granted powers that we believe will start to address some of the concerns about training and some of the concerns about—I think it was referred to as, in past deputations, “overzealous inspectors.” I think that that component needs to be separated from the actual definition, and this particular definition will cause us some concern in the future, so we won’t be supporting it.

The Vice-Chair (Mr. Jeff Leal): Any further comments or questions?

All in favour of this amendment? Opposed? It's defeated.

Shall section 1, as amended, carry? All in favour? It's carried.

We have no amendments for sections 2, 3, 4 and 5. All in favour of sections 2 to 5?

Interjection.

The Vice-Chair (Mr. Jeff Leal): There's a new section 5.1, after 5.

Section 2, inclusive to section 5, all in favour? Carried.

We're now going to the new section 5.1.

Mr. Garfield Dunlop: I move that the bill be amended by adding the following section:

"5.1 The Act is amended by adding the following section:

"Public accountability

"Annual audit

"9.1(1) The board of directors of the society shall appoint a licensed public accountant to audit the accounts and transactions of the society annually.

"Annual report

"(2) The society shall annually file with the minister responsible for the administration of this act a report upon its affairs and activities in the previous year and the minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the assembly if it is in session or, if not, at the next session.

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"Same

"(3) The annual report must include,

"(a) copies of the most recent annual audited financial statements of the society and of the auditor's report on the financial statements;

"(b) details on the investigations and enforcement activities carried out by the society in the previous year, including the outcomes of each investigation; and

"(c) details respecting any appeals taken under section 17 or 18 in the previous year, including their outcomes.

"Material available to the public

"(4) The society shall make available to the public,

"(a) a copy of its bylaws;

"(b) a copy of any procedural or operations manuals for its inspectors and agents, including any prescribed biosecurity protocols; and

"(c) the qualifications, requirements and standards for inspectors and agents of the society established by the chief inspector of the society under subsection 6.1(2)."

It is our opinion that this section will ensure that the OSPCA is accountable and their activities are transparent to the public. It relates to both fiscal matters and the OSPCA inspections. When you're starting to handle sums of \$5 million etc., which was transferred over to the OSPCA this year, I think there's an accountability process that we have to follow.

The Vice-Chair (Mr. Jeff Leal): Ms. DiNovo, please.

Ms. Cheri DiNovo: We'll be supporting this amendment in the NDP. Certainly, we heard enough deputants speaking about the overzealous actions of the OSPCA. Not to mention, as my colleague suggested, that it's not a transparent organization; I still have not seen a copy of the bylaws.

This is a public charity. It's also a public charity that receives public money, tax money. As such, it should be more open and transparent. This is not asking for the moon; this is asking for what any church or any organization out there would be willing to provide, particularly one that receives a tax grant. So certainly we'll be supporting this amendment.

The Vice-Chair (Mr. Jeff Leal): Mr. Levac.

Mr. Dave Levac: With respect to accountability, after reviewing some of the concerns that were raised, we—staff and myself—went back to take a look at some of the accusations that were being laid. We're satisfied that the accountability mechanism is in place that addresses OSPCA law enforcement activities, including enhanced authority of the chief inspector, which we've referenced in terms of the hearings and what's going to happen there; appeals of compliance and removal orders by the ACRB; and that ACRB decisions may be appealed to the courts. So we wanted to bring the distinction between what that body can do—and also, you'll be seeing later some amendments that make it clear the distinction between courts and the capacity for those to use the courts and charges that are dealt with by the court system. So those three components that we talked about in reference to accountability, we believe, are in place.

With respect to the OSPCA organizational and financial accountability, they're governed by legislation that deals with charities and their inherent need and desire to maintain a public credibility and trust. Having said that, some concerns were raised, and it's been asked of them to make sure—it was during the deputations—that they make their bylaws and their reports public. Much of the suggestions made during that time have been done, including an annual report and an audited financial statement that are publicly accessible. Overall investigative statistics are also made public, if requested. Actually, I referenced those during the deputation; I made those statistics available.

The suggestion regarding the ACRB appeals is dealt with by the ACRB's annual report, which is also public. The OSPCA is dealing, as a report to this committee right now, with the issue of accessibility to their bylaws, and we anticipate that they will act appropriately. We believe that this particular piece inside of the legislation is not necessary.

Ms. Cheri DiNovo: Just responding to something that Mr. Levac said—and I appreciate that hopefully this is going to change, with or without this amendment passed, the OSPCA. Some of the statistics that we were given and that we did have available to us were unaudited statistics. They were provided by the agency itself and not ascertained or verified by an outside agency. That's exactly what we and the Progressive Conservatives are

asking for in this amendment: that it be verified by an outside agency. We heard various statistics, for example, about euthanasia rates. How do we verify that if we don't have somebody from outside of the OSPCA giving that to us? So that's the momentum of this amendment. I know it's going to be defeated, so I'm just saying that I hope that by going on record this is changed.

The Vice-Chair (Mr. Jeff Leal): Mr. Levac, please.

Mr. Dave Levac: Just for clarification purposes, all of the statistics that were provided during that committee were not solely accumulated from the SPCA. They were accumulated through other sources that provided those pieces of information. For clarity purposes—and if you'd like, I could go back and get those singled out to show you that some of those came from other statistics that are taken by other agencies. We gave you a package of an overall picture that we committed to. So I can get that clarity for you.

Ms. Cheri DiNovo: Thanks, Dave.

The Vice-Chair (Mr. Jeff Leal): Thank you, Mr. Levac. Further comments or questions?

Shall section 5.1 carry? All those in favour? Opposed?

Mr. Garfield Dunlop: Can I ask for a recorded vote, Mr. Chair?

The Vice-Chair (Mr. Jeff Leal): Absolutely.

Ms. Cheri DiNovo: Are we voting on the amendment?

The Vice-Chair (Mr. Jeff Leal): We're voting on the new section 5.1, as proposed by Mr. Dunlop. And Mr. Dunlop has asked for a recorded vote.

Ms. Cheri DiNovo: This is the amendment, yes.

Ayes

DiNovo, Dunlop.

Nays

Flynn, Jaczek, Levac, Rinaldi.

The Vice-Chair (Mr. Jeff Leal): It's defeated.

Section 6: Mr. Levac, please.

Mr. Dave Levac: I move that section 10 of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 6 of the bill, be amended by adding the following subsection:

"Exception

"(2) Despite clause (1)(b), a corporation or other entity that was an affiliated society on April 3, 2008 may continue to use the name 'humane society,' 'society for the prevention of cruelty to animals' or 'spca,' or the equivalent of any of those names in any other language, alone or in combination with any other word, name, initial or description, even if it is no longer an affiliated society."

Basically, in a nutshell, in one of the deputations, a recommendation from a highly regarded individual indicated that we grandfather "humane society" and "SPCA" or SPCA affiliates as of April 3, 2008. As far as

grandfathering is concerned, for the OSPCA affiliates, we are going to start the clock at April 3, 2008, the date of Bill 50's introduction. Any groups that were affiliated with the OSPCA on that date can continue to use the name, even if they cease to be affiliates in the future.

The intent of section 6 remains clear and important to ensure that the public, veterinarians and police can identify which local animal welfare group has authority under the OSPCA Act, which has been in existence all the time—it has never been any different—by restricting the use of the names "humane society" and the "SPCA." In most but not all of Ontario, these names have become synonymous with OSPCA. We understand there are approximately six or seven local groups that use the name "humane society" that are not affiliated with the OSPCA. In some instances, this has caused some confusion and concerns—and I say "in some instances."

We're also saying that any group that does not provide substantial field-level animal welfare services should not be using the names because it confuses the public, who may unfortunately assume that their local individual groups are dealing with or contributing to the OSPCA affiliate.

During the hearings, it became apparent that even the committee members, including myself, at some times had difficulty making a distinction between some of these cases, which only reinforces the need for the law to have greater clarity on this particular issue. So we are making the amendment to section 6, as we made the commitment to do so.

The Vice-Chair (Mr. Jeff Leal): Thanks, Mr. Levac. Just to clarify, Mr. Flynn arrived. He voted on the last motion, but his sub didn't start; the clock doesn't start ticking until 10:30. Just to let you know that, committee, for the record.

Mr. Kevin Daniel Flynn: You mean, I could have stayed out?

The Vice-Chair (Mr. Jeff Leal): You could have stayed out for another two and a half minutes, Mr. Flynn, but thank you for your prompt attendance.

I know there will be some debate from the official opposition and NDP because both of you are recommending voting against this. Ms. DiNovo, please. We'll go to you first and then Mr. Dunlop.

Ms. Cheri DiNovo: Yes, and I'm also looking for some clarification. Clearly, we'll get to that. We are asking on this side of the room that section 6 be taken out entirely. The government had promised an amendment. We got it. We're not happy with it. For one thing, we wonder about this magical date of April 3, 2008, and the fact that it does exclude those who are not affiliated with the OSPCA.

1030

I also wonder about the jurisdiction that even this committee or this bill has over names, period. Can we actually legislate somebody not to use the word "humane" in their name? I think that this is outside of our jurisdictional ability here. I also think that it speaks to what we heard over and over again in the deputations and

what we're so upset about on this side: that is, this turf-warfare aspect of the bill that's supposed to be about animal welfare when in fact it's about human welfare and the human welfare of the OSPCA over and against some of its affiliates.

This is a problem. We were hoping for more from the government. We'd like to hear more of an explanation from the government. We're voting against it as it stands.

The Vice-Chair (Mr. Jeff Leal): Mr. Dunlop, please.

Mr. Garfield Dunlop: I have a couple of questions that I'd like to have answered, if the parliamentary assistant can provide that. There are a couple of things that I'm concerned about with this particular amendment, one being those that aren't affiliated whose names could be taken away or will be taken away as of April 3. I want to know, first of all: Will groups like the London Humane Society, the Toronto Humane Society, Burlington and Hamilton retain their names as we know them today as a result of the government passing this amendment? I'd like that put on the record, if we could.

The second thing that I'm concerned about is—I'm looking into the future. A lot of people care a lot about animals, and I'm thinking of philanthropists etc. who may want to leave large sums of money to a community to actually initiate what we would call a humane society, and that might disallow them to use that name in the future. When other communities have it now and it's been something that we know at least has been around for 121 years in the province of Ontario, I think the name "humane society" should be able to be used in the future, and not only by the existing ones. I can see potential down the road for others being established and being very reputable and very professional in the way they operate. I'm not sure if you have any comments on that, but if you wish, I'd like the answer.

The Vice-Chair (Mr. Jeff Leal): Mr. Levac, please.

Mr. Dave Levac: Certainly. Let's try to tackle all of them as they came up.

April 8, 2008, is the designated time at which, if the bill passes, it proceeds. We're using that as the start point, so it's not as if it's a magical date. It happens to be the date on which, if we as a Legislature pass the bill, it is enacted. That's the point that between now and then other people have an opportunity to make some decisions on what they do or don't do. That's the date.

You asked about names and courts. I can give you several examples, but I'm not a lawyer, so I don't profess to know the legalese behind this. There are some people who have definitive opinions that you cannot legislate this name. "Things go better" or "It's the real thing"—those trademarked phrases. There are court cases ad infinitum about people using somebody else's name or catchphrase or verbiage taken by themselves out of the context of selling those things or those things being available in our simple everyday language. You can give ton of those examples. Quite frankly, that's for the courts to decide. Everyone's got a lawyer who's saying that "Our opinion is, it's yes" or "Our opinion is, it's no," and with all due respect to any lawyers in the room, there's

an old saying: If you put three people in a room and three of them are lawyers, you'll have five different opinions of whether or not it's legal. What we're saying as the government is that this is our attempt to try to clean up something that has had some problems in the past, and that it's going to be referenced to the court in order to fulfill that requirement.

Mr. Dunlop said that it could be taken away. That's the good, operative word: "could" be taken away. There are no provisions in this particular legislation for it automatically to happen, so that if it leaves room for anyone who feels that there's a way in which this name should be removed because of their practices, then there would have to be a civil suit. There would have to be court action in order for that to be done. It's not done in the bill. If you look carefully, what happens in the bill is that it sets the premise out for the foundation of how the OSPCA has always acted. This is not entrenching anything brand new; this is entrenching something that's been in existence for quite some time under section 10.

There are various situations that you asked about when you mentioned London, Toronto and all the other ones. Some are different. Some of them are affiliates, so it's grandfathered and nothing's going to change, so they're going to keep their name. Under the circumstances, the potential for losing or keeping the name is all up between the two groups of people. You can join, you can remove yourself, and if you remove yourself and you're already an affiliate—I want to be clear—then that name stays with you.

For the example that you used, in Toronto's case, it's an affiliate. But if it removes itself and says, "I no longer want to be an affiliate to the OSPCA," it keeps its name as the Toronto Humane Society. What's the other example? Burlington—if Burlington wants to join the OSPCA, then it can join the OSPCA at a later date if it doesn't even have affiliation, and it could have cause to change its name. If there's an organization out there that does not have an association with the OSPCA, it keeps its name. It's the courts that are now going to be carrying the load on decisions in terms of whether or not somebody can or cannot maintain their name.

The last example I'll give you—and this is just me speaking; I didn't get this approved or not. The example I'll share with you is the WWF, the World Wildlife Fund, in case you were thinking I was going to talk about wrestling. It had the initials "WWF" before the wrestling. They did go to court, and Vince McMahon made it clear, saying, "We are going to fold. My company is not going to be able to survive if you make us"—their arguments in the court were basically saying, "It's ours; it's nothing like the WWF. We're going to go; we're going to fold." They changed their name because they lost the court case. The WWF, which is the World Wildlife Fund, maintained their name, and the other WWF was ordered to change its name. It changed its name to WWE, and I don't think there's anyone here who doesn't realize that they're doing quite well, thank you very much.

I think that the courts are where this is going to take place, if it does, and I think that there needs to be an

understanding—and it was referenced earlier—that this is a turf war. I don't want to be dragged into it. This is their opportunity to kind of put it to rest, one way or the other, through the courts, where it belongs. I hope that clarifies the difference between somebody saying that they're taking sides as opposed to entrenching something that's already in existence, leaving it there, bringing clarification, as committed to, and adjusting it so that the grandfather piece takes care of those who had the biggest concerns that were laid out.

The Vice-Chair (Mr. Jeff Leal): Ms. DiNovo, please?

Ms. Cheri DiNovo: Thank you for that explanation, Dave. However, a couple of things: First of all, groups are affected by this, and immediately so. The Humane Society of Canada is affected by this; the Burlington Humane Society, among others, is affected by this. They're not affiliates of the OSPCA. I think that animal lovers across the province would wonder: Why are we forcing groups that have been in existence for quite a while, that have shown that they're animal-positive, shown that they do good work in the community—why are we all of a sudden forcing them to become affiliates? What place does forcing them to become affiliates have in an animal welfare bill?

I don't understand why the government is so wedded to section 6. Would it really cost this bill, which is purportedly in favour of animal welfare—and I believe that most of it is—anything to take the whole section out? Why do we have this section in? It does affect existing organizations. Why force those existing organizations to have to go to court? What is the point in that? They're going to take valuable money away from the good work that they do with animals to spend on lawyers. Is that in the interest of animals? Is that in the interest of animal welfare? This has no place in an animal welfare bill.

I know there has been the speculation that people will be kicking in doors, pretending they're the OSPCA when in fact they're not—when they're from PETA or something. The reality is, we didn't hear one deputation talk about anything like that. This has not happened. We don't have officers running around pretending to be OSPCA officers. It hasn't happened. We didn't hear about it in deputation, so why? The only reason I can come up with—and honestly the only reason; I'm not taking sides here—is that for some reason, there's some infighting between the OSPCA and its affiliates, and they're going to take it out in this bill. This is no place for that. This is a bill purportedly for animal welfare, and I don't think we should have to drive people to the courts when we don't have to.

I see it, first of all, as completely unnecessary in terms of animal welfare. The only necessity I can see, as I say, is a kind of turf struggle that has no place in an animal welfare bill. We're absolutely opposed to not only this amendment, but the entire section 6. We want to see it come out entirely—I'm not going to filibuster, you'll be happy to know, like I did with another bill. But we hope, and we've heard some assurances, that even though it's

there, they're not going to act on it. Well, we'll wait and see. My question is, why put something in place that's so egregious?

1040

The Vice-Chair (Mr. Jeff Leal): Mr. Dunlop, please.

Mr. Garfield Dunlop: First of all, I'm really glad you're not going to filibuster; it's August 18 and we're now in Queen's Park.

Second of all, our party won't be supporting this either. I mentioned earlier in my comments about the potential for a problem, not only with the affiliates and non-affiliates but in the future with other organizations to want to create an organization and use the words "humane society." I don't think this bill is the place to put it in so that it won't happen. I mentioned earlier that you could easily have—if you look at the example Mr. Levac was using of Vince McMahon and the World Wildlife Fund. There's another example that happened just recently in the United States. I believe it was Leona Helmsley, a billionaire heiress who left \$7 billion or \$8 billion to her cats or dogs or something like that. That could have easily been left to an organization to create a new humane society in a state, or in this case a province, or a city or community or whatever. I'd hate to think that somebody with philanthropy behind them, and the potential for a new organization to be created that would help animals in our province, couldn't use the words "humane society" in the future. For that reason alone, along with the affiliate problem, we can't support this particular motion.

The Vice-Chair (Mr. Jeff Leal): Mr. Levac, please.

Mr. Dave Levac: I want to make sure that we're clear on some of the assumptions that Ms. DiNovo made. First of all, no one immediately, because of this legislation, loses their name. What has to happen as a result of the legislation—should there be a desire to have them stop using the name, then a court action has to take place. This bill does not remove that name. We want to be clear about that. So if they continue using the name, the only way in which that gets done, unless I'm misinterpreting this—and I'll turn to my staff and anyone in the legal department. I'm getting a nod that says I'm saying that right.

As to the second point you made, I disagree with you that nothing has been impacted by some of this problem. There has been. There have been people raising money under the premise that they immediately get money and they do welfare work with animals. There are some organizations out there that simply raise money. That's a problem, because very similar to the philanthropic belief of some people who love animals dearly, they could be sitting there giving money thinking that they're getting that particular animal fixed right away, and quite frankly there could be organizations out there that are just simply raising money. They have this amazing capacity to raise money, and if they're using the terminology associated with "humane society," the implication is that the same kind of work that the OSPCA is doing is being done. So there is a problem presently.

To assume that nothing else is a problem is not a good assumption, because there are some ways that people are raising money right now, under that premise, so we're trying to kind of tighten that enough to simply say, "You're not going to use that little trick anymore; we're going to try to fix that by putting in this piece of legislation."

Ms. Cheri DiNovo: With respect, and seriously with respect to all the good work that has gone into this bill by staff in the ministry, if somebody is ringing doorbells and raising money and saying that they're doing something and they're not, it's fraud. It's a criminal case and it's covered by the criminal laws of the federal government. So we don't need to put this piece in a provincial bill to address that; it's already covered, which is the other thing. Again, with the assurances of, "Nothing's going to change. They don't need to do anything," it then makes it even more appropriate to say, "Well, why put it in? Why have section 6? If it's not going to make that much of a difference to the Burlington Humane Society or the Humane Society of Canada, then why have it?" Clearly, they're upset about it. A number of potential affiliates are very upset about this, and we heard deputations from them.

Again, it doesn't do much in the way of positive actions. Certainly, it doesn't do anything for the animals. In the case of fraud, it doesn't address that, because that's already addressed. So I don't get it. I still don't get it, despite the assurances to the contrary, so I will be voting against it.

The Vice-Chair (Mr. Jeff Leal): Mr. Dunlop, anything further?

Mr. Garfield Dunlop: No.

The Vice-Chair (Mr. Jeff Leal): All in favour of this amendment?

Interjection.

The Vice-Chair (Mr. Jeff Leal): A recorded vote.

Ayes

Flynn, Jaczek, Levac, Rinaldi.

Nays

DiNovo, Dunlop.

The Vice-Chair (Mr. Jeff Leal): The amendment's carried.

Shall section 6, as amended, carry? Carried.

Section 7: Mr. Dunlop.

Mr. Dave Levac: Mr. Chair, we should acknowledge that after section 6, which was accepted, there are two notices. Does that automatically remove those, just for the purposes of clarity?

The Vice-Chair (Mr. Jeff Leal): Yes, it automatically removes—they weren't amendments; they were just motions, saying to vote against section 6.

Mr. Dave Levac: Yes, and because it passed with the amendment—

The Vice-Chair (Mr. Jeff Leal): They're redundant.

Mr. Dave Levac: Thank you very much.

Mr. Garfield Dunlop: I was going to vote with the PC party and the NDP against it.

The Vice-Chair (Mr. Jeff Leal): That's correct, and you've exercised your vote.

Mr. Dunlop, the next one is yours.

Mr. Garfield Dunlop: I move that section 7 of the bill be amended by adding the following subsection:

"(2.1) Section 11 of the act is amended by adding the following subsection:

"Training

"(2.1) The society shall ensure that every inspector and agent of the society is trained in the prescribed biosecurity protocols."

This section is added to the existing section 11. It requires that all inspectors are trained in biosecurity protocols. This will help to ensure that hazardous accidents are avoided; for example, that an inspector knows the proper safety standards when moving from one area with biosecurity hazards to another area, and how to conduct themselves in such areas. We'd appreciate it if we could get support on that.

The Vice-Chair (Mr. Jeff Leal): Thank you. Mr. Levac.

Mr. Dave Levac: While we appreciate deeply the concern from the agricultural community and anyone else handling food that there are procedures in place, I must point out that OMAFRA has led on this issue, quite frankly, across the nation—not only in the nation but in the world—in terms of food safety. They've stated themselves, checking with OMAFRA, that it's not practical, as their current policy is not precise enough to effectively prescribe in law the biosecurity protocols. That's why OMAFRA doesn't prescribe biosecurity requirements in any laws that they administer. Therefore, it's primarily due to the biosecurity issues being different from premise to premise, from situation to situation and from species to species that we find that this particular amendment, although well intended, would not prove to be effective and practical. It's also because the biosecurity requirement methods and training are continually being adjusted and improved to deal with emerging issues, techniques and technology. That would be a difficult situation when you have a law that's specific and that prescribes.

Both OMAFRA and the OSPCA are committed to meeting the most current and effective biosecurity requirements. I'd point out that there were some deputations that basically implied, anecdotally, that a member from the OSPCA would walk in and practise absolutely no biosecurity functions whatsoever. I don't necessarily indicate that that person was not telling the truth; what I'm suggesting to you is that if it did happen, it was an extreme rarity, because our check, after the deputation made the comments, indicated that there is an effective way in which veterinarians, OMAFRA, the farmers and OSPCA staff are continually very sensitive and practise good practices and protocols for biosecurity.

OMAFRA and the OSPCA are actively addressing that by saying that they've posted OMAFRA biosecurity

policy on their website and engage with OMAFRA on ongoing and enhanced training to comply with this policy. As well, with the new chief veterinarian, the animal health and safety branch is dealing with the issue and liaises with the OSPCA to ensure that the policy that is developed and implemented is ever-fluid so that it can modify and change as the situation does, case by case.

My last comment would be that the new powers that the chief investigator is going to be given if we pass the amendments will be very cognizant of that issue that has been raised. So we will not be entrenching that into law.

1050

The Vice-Chair (Mr. Jeff Leal): Any further comments?

Mr. Garfield Dunlop: Just a comment: For a bill that wasn't going to have a lot of impact on agriculture, with agriculture being kind of an exception, we've got a lot of information now on record from OMAFRA and their concerns with biosecurity and their protocols themselves. I'm hoping that although you may not be accepting this right now, down the road, we can have our OSPCA inspectors trained in some of these areas, because there's no question that they're entering farms. There will also be the roadside zoos that they'll enter as well. They wouldn't want to carry any kind of disease from one location to another.

Ms. Cheri DiNovo: Certainly we heard assurances from the government side too that the training that OSPCA agents undergo is going to be extended, lengthened and added to. I'm hearing assurances that this is already part of the protocol of training in OSPCA persons. The problem is that in the deputations that I heard, there were some concerns. I hear that perhaps they're anecdotal. Perhaps they are; perhaps they're not. Who knows? I don't see a problem with really entrenching this or entrenching other things in this bill, so why not entrench better training in this bill? Again, we're going to be including a letter about the operations of the OSPCA at the end when we submit our final thoughts about it. Training is going to be one of those issues that we think really needs to be addressed in the OSPCA.

The Vice-Chair (Mr. Jeff Leal): Any further discussion? All in favour of this amendment? Opposed? It's defeated.

Shall section 7 carry? All in favour? Carried.

Section 8: Mr. Levac, please.

Mr. Dave Levac: This is in regard to section 8. I move that section 11.1 of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 8 of the bill, be amended by adding the following subsection:

"Exception

"(1.1) Subsection (1) does not apply in respect of,

"(a) an activity carried on in accordance with reasonable and generally accepted practices of agricultural animal care, management or husbandry; or

"(b) a prescribed class of animals or animals living in prescribed circumstances or conditions, or prescribed activities."

This is to talk to Mr. Dunlop's concern, originally expressed, and it fulfills a commitment that an entrenchment of this would take place in the bill. We had indicated in the hearings that the exemptions were there. We repeated it several times and found that the subsection needed to be exact, and we've made that commitment to do so, so that's what we're adding this for.

It was always our intention to provide an exemption for reasonable and accepted agricultural practices. We indicated that we respected the farm community's day-to-day operations and we respected agriculture's ability to establish those practices, which is another way of saying that the entrenchment of this particular clause respects that circumstance. I want to repeat, though, the one comment that I made that indicated that it doesn't say that the OSPCA officer would not intervene, but that it would be beyond the accepted norms and practices, which would be coordinated with OMAFRA, the farm community, OFA, Christian Farmers and anyone else in terms of the proper practice. The OSPCA would then have continued authority to do that if it's an intervention beyond the normal practices. I want to indicate to you that this is a commitment that we made, and we're fulfilling that today.

The Vice-Chair (Mr. Jeff Leal): Further discussion? All in favour of this amendment? Carried.

Mr. Dunlop, please.

Mr. Garfield Dunlop: Mr. Vice-Chair, I understand that because subsection 1(4) was turned down, this motion will be out of order.

The Vice-Chair (Mr. Jeff Leal): That's correct.

Mr. Garfield Dunlop: I'll withdraw that, please.

The Vice-Chair (Mr. Jeff Leal): Thank you very much. You're up next.

Mr. Garfield Dunlop: Page 12?

The Vice-Chair (Mr. Jeff Leal): That's correct.

Mr. Garfield Dunlop: I move that subsection 11.2(3) of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 8 of the bill, be struck out and the following substituted:

"Training, permitting animals to fight

"(3) No person shall,

"(a) train an animal to fight with another animal for the purposes of competition or entertainment; or

"(b) permit an animal that the person owns or has custody or care of to fight another animal for the purposes of competition or entertainment."

One of the reasons we put that in is that the amendment will strike out the existing section in the bill and elaborates that specifically an animal cannot be trained or permitted to be trained for fighting. This section limits those situations to being for competition or entertainment. Restricting these sections to competition and entertainment takes into account the various contexts where it is natural for an animal to fight—for example, the normal assertion of dominance or when they are protecting a farmer's livestock and attack another animal to ward them off. A good example would be a sheepdog, someone who has a dog to herd sheep or cattle. They have to

be trained in that particular area, and we'd like to make sure they're exempt from that.

The Vice-Chair (Mr. Jeff Leal): Thank you, Mr. Dunlop. Mr. Levac.

Mr. Dave Levac: Picking up on that last comment, I'll indicate that we'll be speaking to that in a later amendment that's being proposed. To make it simple, we believe that with this particular amendment, what you do is create a possible loophole with this activity, the claim that there's some other purpose to training or fighting. We believe that we want to be broad enough so that no matter what they try to use as an excuse, it would just simply be inside of the definition that we're presently proposing so that if the purposes of competition or entertainment can't be met, then that means it excuses them for doing what they're doing. I don't think the intent was there, but you're creating a loophole that they can come up with a reason why it's not entertainment or competition and they get to proceed to do what they're doing on the sly. Quite frankly, we believe this particular amendment to be a little bit flawed, so we can't accept it.

The Vice-Chair (Mr. Jeff Leal): Ms. DiNovo.

Ms. Cheri DiNovo: Yes, we are going to side with the animals on this one. Again, as in the distress discussion, the broader the definition, the better. I would hope that the situation that Mr. Dunlop referred to—and I'm very aware of that from the deputations—be covered by the standard practices of agriculture, which is in another section of the bill. So we're going to vote against this.

The Vice-Chair (Mr. Jeff Leal): Any further comments?

Mr. Garfield Dunlop: I'll ask for a recorded vote on that.

Ayes

Dunlop.

Nays

DiNovo, Flynn, Jaczek, Levac, Rinaldi.

The Vice-Chair (Mr. Jeff Leal): It is defeated.

Mr. Dave Levac: I move that clauses 11.2(6)(a) and (b) of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 8 of the bill, be struck out and the following substituted:

“(a) an activity permitted under the Fish and Wildlife Conservation Act, 1997 in relation to wildlife in the wild;

“(a.1) an activity permitted under the Fish and Wildlife Conservation Act, 1997 or the Fisheries Act (Canada) in relation to fish;

“(b) an activity carried on in accordance with reasonable and generally accepted practices of agricultural animal care, management or husbandry; or.”

Quite frankly, this is just simply a continuation of the stakeholders' committee, to hear their request that this be enshrined in the body of the act. We're fulfilling that commitment, as requested.

The Vice-Chair (Mr. Jeff Leal): Further discussion?

Mr. Garfield Dunlop: I will support this particular amendment, although, when you use a statement like part (b), “an activity carried on in accordance with reasonable and generally accepted practices,” I guess my concern there is, that's very vague as well. You have a lot of different concerns on what's generally accepted. I can understand where you're going with it, but I can also see there being a loophole there as well.

Ms. Cheri DiNovo: We're going to vote in favour of this motion as well. It tightens up the definitions a little bit, which is always a good thing. But I hear Mr. Dunlop's concerns. Again, those are sort of the meta-concerns of this entire bill. Certainly, I refer again to the fact that I will be including a letter—and this speaks again to the training of the agents, the transparency of the organization. If they move in that direction, then we're fine with this motion.

1100

Mr. Dave Levac: Just as a follow-up, the point's taken and accepted, except to say that if you then start to prescribe specifically what those processes are in agriculture, you're doing the exact opposite of what was being asked, which is to “leave us alone and let us do our job,” because we already have, within OMAFRA and our organizations in the farming community, the practices that are prescribed out there. We also heard deputations that indicated that those are even changing, and that there are different ways in which that's happening. So you can't have it both ways. If you start doing that, we'd have to revisit the law and then change that again.

So I think, in terms of defending the position, I accept what the opposition have said as cautions. I think that's fair to say, to be careful of this, because if it's too loosey-goosey, it means that the OSPCA can interpret it differently. But then what we'd be doing is going against what we committed to the farmers in the first place, which is that we would try to just entrench the protocols that they have in place.

The Vice-Chair (Mr. Jeff Leal): Further comments? All in favour of this amendment? Carried.

Mr. Dunlop.

Mr. Garfield Dunlop: I will withdraw this next section.

The Vice-Chair (Mr. Jeff Leal): Thank you.

Mr. Dunlop again, page 15.

Mr. Garfield Dunlop: Okay. This is the warrantless entry section. No, I'm sorry—

Mr. Dave Levac: No, no.

The Vice-Chair (Mr. Jeff Leal): This one's about predators.

Mr. Dave Levac: This is the one that piggybacks on the—

Mr. Garfield Dunlop: Okay, yes. I'm sorry. I've got it here.

I move that section 11.2 of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 8 of the bill, be amended by adding the following subsection:

"Same

"(8) Subsection (3) does not apply in respect of animals used to guard and defend livestock from predators."

This adds a further exception to when distress is not able to be found. In other words, when an animal is utilized to defend livestock and attacks another animal, causing it, for example, to suffer, it's not equivalent to a finding of distress pursuant to this act.

The Vice-Chair (Mr. Jeff Leal): Mr. Levac, please.

Mr. Dave Levac: This is the one that I referenced I would be coming back to explain about the farm community. The dog we were given as an example in terms of nipping at the heels of a sheep and chasing coyotes—we're in favour of doing that. What we need to express is the fact that farmers would be protected as guarding, defending or herding, and are not simply fighting, just as hunting is not fighting. So the examples that were given by those hunting and fishing people who presented, saying that a dog treeing a raccoon could be cited—that's not it. That's part of the hunting process, as is farming. They need to guard their stock; they need to defend against the predators for the animals. In the herding situation, it takes care of the dog nipping at the heels, because that's a normal practice for the dog and it doesn't hurt the animal.

This is an example of how the other motion had to be turned down, because then they could turn around and say, "Well, I'm training the dog to defend a herd." So therefore, you almost create this illusion that we understand that training for fighting is an acceptable practice, because we just want to box it. We want to send the signal loud and clear: We ain't going to let it happen. Even though it's a positive way in which you're trying to protect the farmer, this almost implies that fighting is acceptable in a small range of areas. We want to shut that down completely, and that's why we can't accept this amendment.

The Vice-Chair (Mr. Jeff Leal): Ms. DiNovo, please.

Ms. Cheri DiNovo: We're going to vote against this amendment, much for the same reasons. We don't want to leave any loopholes for dogfighting. As a former owner of a British bull terrier, my best dog ever, I'm very aware of that problem and its existence, and we want to allow that to be eradicated. Again, I take whoever is reading these notes back to the fact that standard agricultural practices are protected in this bill. One of them is the fact that you have sheepdogs and you have animals that guard against coyotes and other predators. So we are going to vote against this motion.

The Vice-Chair (Mr. Jeff Leal): Anything further?

Mr. Garfield Dunlop: I'll ask for a recorded vote.

Ayes

Dunlop.

Nays

DiNovo, Flynn, Jaczek, Levac, Rinaldi.

The Vice-Chair (Mr. Jeff Leal): It's defeated.

Mr. Levac, please.

Mr. Dave Levac: I move that subsection 11.4(3) of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 8 of the bill, be amended by striking out "a veterinary facility" at the end and substituting "accredited veterinary facility."

This is housekeeping, as we accepted the previous amendment.

The Vice-Chair (Mr. Jeff Leal): Comments or questions? All in favour of this amendment? Carried.

Mr. Dunlop.

Mr. Garfield Dunlop: I'm sorry I'm so slow on some of this this morning. I'm just trying to keep organized.

I move that sections 11.4 and 11.5 of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 8 of the bill, be struck out.

Section 11.4 is struck out so that warrantless searches are no longer allowed. This section provided too much power to OSPCA inspectors. As a result of striking out sections 11.4 and 11.5, it is no longer necessary. Section 11.5 relates to the granting of a warrant in circumstances when an OSPCA officer has been denied entry to inspect, pursuant to 11.4.

We've heard a lot on this particular section, and not just people making deputations; we've had a lot of correspondence and a lot of letters on it as well. On behalf of our party, we just can't support the whole concept of warrantless entry, so we want this removed. I don't expect you're probably going to support it, but the reality is that we want to bring it to the table for a potential amendment.

The Vice-Chair (Mr. Jeff Leal): Mr. Levac.

Mr. Dave Levac: Understanding the intent and the philosophy behind this particular motion, we're not going to support it, but we do want to make a couple of quick points.

The first point is that warrantless entry already exists under three headings, and we explained that the two headings would stay the same. The one heading was modified in order for the observation piece to be strengthened. We gave the example several times over that you could enter a car if you could see through the window and see a dog in distress, but if you heard the dog yelping or the kitty mewing in the trunk, you couldn't because you can't see it, which is part of the definition. So that's the only change of that that we wanted to make.

Warrantless entry already existed under the circumstances, which was non-compliance to an order and with permission of those that are on site. So if I go to a person and say to them, as an SPCA officer, "Do you mind if I come in to inspect the circumstances behind which we are receiving complaints?" and they say yes, you don't need a warrant. That's already in existence. So I wanted to make that clear.

The second thing: By removing 11.4 and 11.5, you take out the entire package. Therefore, you would completely remove the OSPCA's ability to protect animals in

captivity, including zoos, circuses, rodeos and pet stores, which is one of the reasons why we wanted to do an update on the bill. Although I respect—and I've indicated that clearly—the philosophical belief that warrantless entry shouldn't exist at all, I just have a problem with taking it completely out. Because when you remove it—probably inadvertently, because I think you were looking specifically at warrantless entry. But by removing the clauses the way you have, it completely takes out that authority altogether.

The Vice-Chair (Mr. Jeff Leal): Ms. DiNovo and then Mr. Dunlop.

Ms. Cheri DiNovo: I was surprised to find out that warrantless entry has been on the books forever and that this is just an update of it. However, again, if the world worked as it should and the OSPCA worked as it should, then absolutely: Probable cause is really the philosophical reason behind this. If you've got probable cause, even if you don't have a warrant you can enter facilities. We're giving this power to agents, and I think it's what we should do. I'm going to vote against this motion.

1110

But—and here's where the “but” comes in—we heard a number of deputations about the way this was handled, and handled not well. One of the recommendations—again, this will go in the letter—is that, for example, we had an instance where an agent entered a zoo. It was assured to us that, for example, with exotic animals—you can't be an expert on every kind of animal breed—a veterinarian would go along with them who knew about the breed and would be able to say whether this animal is being abused or not.

The question was: When they remove exotic animals, where do they remove them to? Euthanasia is usually the case because others won't take them or can't take them. We're concerned about it. We think that it should be upheld, that they should be able to enter with probable cause. We want to protect the animals first and foremost, but we also want to ensure, with the training of the agents, that they're taking along people with them who know about the breeds and they're not removing animals unnecessarily because they don't have the facilities to look after them either, which raises another interesting point, and I'll just make it quickly: that the OSPCA is exempt from this very bill. This will also go in the letter. In other words, if they remove an animal and look after it, who inspects the inspectors? We've heard some concern about the animals that the OSPCA is looking after. Are they looking after them well? Who's going to check on them? The oversight issue will go in the letter.

We're voting against this amendment.

Mr. Garfield Dunlop: Just quickly, I've heard so many horror stories during the deputations and from individuals who approached me on a one-to-one basis who were telling me about stories around warrantless entry. I'm hoping that the whole image around the OSPCA can be changed drastically in this particular area.

One of the things I thought was good about the bill was the fact that we had the opportunity, with a phone

call, to call a JP. A JP could give you approval to enter the premises. Again, I go back to inspectors who might be overzealous and offer to go on any property, which may in fact cause some damage or bad feelings or just be a bad decision. I think we heard some of the people here at our committee hearings, but it's not something that our party agrees with: going onto a premise without a warrant. I'll ask for a recorded vote on that too, please.

The Vice-Chair (Mr. Jeff Leal): Any further discussion? Shall this amendment carry? All in favour?

Ms. Cheri DiNovo: Can I just say one more thing? There's another ethical reason behind the reason, and I just want to make this very clear that we're voting no for this amendment as well. I understand the Progressive Conservatives' reason for putting it forward. It's always a touchy subject. But ultimately, we in the New Democratic Party believe that animal rights supersede property rights. That's very important.

The Vice-Chair (Mr. Jeff Leal): All in favour of the amendment? A recorded vote.

Ayes

Dunlop.

Nays

DiNovo, Jaczek, Levac, Rinaldi.

The Vice-Chair (Mr. Jeff Leal): It is defeated.

Shall section 8, as amended, carry? All in favour? Carried.

Section 9: Mr. Dunlop, please.

Mr. Garfield Dunlop: I will, then, withdraw this one.

The Vice-Chair (Mr. Jeff Leal): Okay. Mr. Levac, please.

Mr. Dave Levac: Thank you, Mr. Dunlop, for your recognizing and making things move along. I appreciate that.

I move that subsection 12(7) of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 9 of the bill, be amended by striking out “a veterinary facility” at the end and substituting “an accredited veterinary facility.”

This is very similar to all of the cases in which we mention “veterinary facility.” This is housekeeping to use “accredited.”

The Vice-Chair (Mr. Jeff Leal): Comments or questions? All in favour? Carried.

Mr. Garfield Dunlop: I move that subsection 12.1(2) of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 9 of the bill, be amended by striking out “upon conclusion of the tests and analyses, shall dispose of the sample or carcass” at the end and substituting “upon conclusion of the tests and analyses, and subject to allowing the owner or occupier of the building or place from which a sample is taken or the owner or custodian of the animal whose carcass is being tested and analysed, to conduct their own tests and

analyses of the same sample or carcass, shall dispose of the sample or carcass.”

We’ve added “and subject to allowing the owner or occupier of the building or place from which a sample is taken or the owner or custodian of the animal whose carcass is being tested and analysed.” By adding this part, the owner or occupier is being permitted to conduct their own test independently of the OSPCA before the animal is actually disposed of. We think that’s fair.

The Vice-Chair (Mr. Jeff Leal): Thank you, Mr. Dunlop. Mr. Levac, please.

Mr. Dave Levac: That last comment is exactly bang-on. The only concern that we have is that by this entrenchment, you could be opening up a fudged result. I’m not an expert, please, but I did get some opinion on this. I guess the best way to characterize this would be to look at your cases of CSI, the testing procedure that takes place. After the fact that the test has been done, then the test material and/or the carcass is deemed to be not usable. Therefore, it would cause a problem for the testing procedures that take place in a legalized way.

Second to that, there’s absolutely nothing to prevent an owner from taking a sample on their own at the same time as the OSPCA takes their sample and having it tested. There’s nothing in law that says that if an OSPCA officer shows up on site and says, “I’m going to take a sample of that carcass”—that agent cannot restrict the owner from going in and taking their own sample and having it tested in a parallel circumstance. We believe that the motion is not appropriate.

OMAFRA has stated that—we confirmed that with OMAFRA, so I didn’t learn this from TV—a sample material or a carcass would be properly disposed of after testing, and these tests would normally be conducted at the animal health laboratory at the University of Guelph, which is a highly credible internationally accredited institution, so I don’t think that there should be any question of that piece. But we recommend very strongly that there could be some communication piece out there that makes it clear, either through OFA or OMAFRA or somebody, that if somebody wants to test your animal, go grab a sample, because it’s not against the law to do that. So we’re not going to support the motion.

The Vice-Chair (Mr. Jeff Leal): Thanks so much, Mr. Levac. Ms. DiNovo.

Ms. Cheri DiNovo: Yes, I agree. It’s in the act here—“an inspector, agent or veterinarian”; it doesn’t necessarily say “an agent of the OSPCA.” So I don’t think it’s a necessary amendment.

The Vice-Chair (Mr. Jeff Leal): Mr. Dunlop, anything further?

Mr. Garfield Dunlop: No.

The Vice-Chair (Mr. Jeff Leal): All in favour of this amendment? Opposed? It’s defeated.

Mr. Dunlop, please.

Mr. Garfield Dunlop: I move that section 12.1 of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 9 of the bill, be amended by adding the following subsection:

“Biosecurity protocols

“(4.1) An inspector or an agent of the society who is lawfully present in a building or place under the authority of any provision of this act or of a warrant issued under this act shall follow the prescribed biosecurity protocols, and the society shall fully compensate any person who suffers economic loss as a result of an inspector’s or agent’s failure to follow a prescribed biosecurity protocol.”

This section ensures that the biosecurity protocols set out in the regulation are followed by OSPCA inspectors, and if the protocols are not followed and any person suffers an economic loss, the OSPCA is required to compensate that person for their loss.

The Vice-Chair (Mr. Jeff Leal): Mr. Levac.

Mr. Dave Levac: OMAFRA has led the way on this issue. As stated in the motion, it’s not practical, as their current policy is not precise enough to effectively prescribe in law, as indicated previously. That’s why OMAFRA doesn’t prescribe biosecurity requirements in any laws that they administer. This is primarily due to biosecurity issues being different from premise to premise, situation to situation, location to location and species to species. We won’t be supporting this amendment.

The Vice-Chair (Mr. Jeff Leal): Ms. DiNovo, please.

Ms. Cheri DiNovo: Again, back to property rights vs. the animal’s welfare: We won’t be supporting this motion either. If the world worked as it should, if the OSPCA worked as it should, is really the cautionary note here. We don’t think that they should be hampered by the thought, if they’re saving an animal’s life, that, “Oops, I might have to pay for a wrecked rug or something.” We are going to be voting against this amendment, but again: emphasis on the training.

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The Vice-Chair (Mr. Jeff Leal): Thank you.

Mr. Garfield Dunlop: I’ll ask for a recorded vote on that.

Ayes

Dunlop.

Nays

DiNovo, Jacek, Levac, Rinaldi.

The Vice-Chair (Mr. Jeff Leal): It’s defeated. Shall section 9, as amended, carry? Carried.

Interjection.

The Vice-Chair (Mr. Jeff Leal): It was withdrawn. Section 10: Mr. Dunlop.

Mr. Garfield Dunlop: I move that section 10 of the bill be amended by adding the following subsection:

“(0.1) Subsection 13(2) of the act is repealed and the following substituted:

““Order to be in writing

“(2) Every order under subsection (1) shall be in writing and shall have printed or written thereon a description of the rights and obligations of the person who is subject to the order, including a full description of the process for appealing the order.”

On that, section 13 elaborates what an inspector can order an owner or custodian to do when a finding of distress is made. This amendment requires that the order be in writing, as presently legislated, but also include an individual's rights and obligations and the process that they can undertake if they wish to appeal the order. Adding this amendment will ensure procedural transparency by making every effort to ensure that all parties are fully aware of what they can and cannot do when an order is actually made.

The Vice-Chair (Mr. Jeff Leal): Mr. Levac.

Mr. Dave Levac: Before I comment on that, I just want to point something out that I think we need to take a look at and will correct afterwards. I think we did not pass or defeat one of the motions in section 9. Can I have this checked, please, before we finish up?

Mr. Garfield Dunlop: That was withdrawn.

Mr. Dave Levac: You withdrew it?

Mr. Garfield Dunlop: Yes.

The Vice-Chair (Mr. Jeff Leal): Yes, we pulled it from the package.

Mr. Dave Levac: Oh, it was pulled altogether? My package didn't show that, so I appreciate the clarity. Now I can go back to the amendment in section 10.

The Vice-Chair (Mr. Jeff Leal): Yes. You're up, Mr. Levac.

Mr. Dave Levac: Thank you very much. I apologize for that piece. But when I see something in paper, I always clarify.

The OSPCA orders are already required to include information on the making of an appeal. I do have for you copies of the forms, and it already superimposes those. So since it's already in an action, we can't support something that already takes place. If you'd like to see the forms, I can pass copies around for the members to indicate to you what is expected in terms of notification. I think that's what you're after in terms of communication and making sure people are aware of what their rights are and what the law is. Since I have the forms, I can pass them out as evidence.

Mr. Garfield Dunlop: I do appreciate that. I'm under the impression that that's not always been the case, so if we can improve the image in the future—

The Vice-Chair (Mr. Jeff Leal): We're working on that.

Ms. DiNovo, please.

Ms. Cheri DiNovo: Again, it speaks to the training and it speaks to following standard protocol. This is, I understand, standard protocol. So let's hope they follow it. I don't think the amendment's necessary.

The Vice-Chair (Mr. Jeff Leal): All in favour of this amendment? Opposed? It's defeated.

Shall section 10 carry? Carried.

Section 11: Mr. Levac, please.

Mr. Dave Levac: I move that subsection 11(1) of the bill be amended by adding the following subsection to section 14 of the Ontario Society for the Prevention of Cruelty to Animals Act:

“Order re costs

“(1.1.1) Where a justice of the peace or provincial judge makes an order under subsection (1.1), he or she may also order that the whole or any part of the cost to the society of providing food, care or treatment to the animal pursuant to its removal under subsection (1) and pursuant to the order under subsection (1.1) be paid by the owner or custodian of the animal to the society.

“Same

“(1.1.2) The society or owner or custodian of the animal may at any time apply to a justice of the peace or provincial judge to vary an order made under subsection (1.1.1) and the justice of the peace or provincial judge may make such order as he or she considers appropriate.”

This basically clarifies the court order to retain an animal, may address costs and sets out the process for the OSPCA or animal owner to apply to have that order modified or, in effect, resolved. This ensures that the issue of the cost can be addressed when the court order is granted, that either party can apply to have the order modified and that statements of account can be served on the owner.

This further clarifies that when a court orders an animal retained by the OSPCA, the matter will not be wholly subject to court order—and will not be within the jurisdiction of the Animal Care Review Board, the ACRB. Previously, only the ACRB-related sections mentioned costs in relation to retain an animal, so that it could be misconstrued that even where there is a court order to retain the animal, the ACRB still had jurisdiction to rule on costs. This facilitates concluding a matter at appropriate points in time, including, for example, when a charge is resolved in court. Simply put, this separates that understanding between the ACRB and the court and who can and cannot order cost recovery or cost payments.

The Vice-Chair (Mr. Jeff Leal): Further comments? All in favour of this amendment? Carried. Subsection 11, as amended, carried.

Section 12: Mr. Dunlop.

Mr. Garfield Dunlop: I've got a replacement section 12, with a couple of amendments made to it.

The Vice-Chair (Mr. Jeff Leal): It's 25R.

Mr. Garfield Dunlop: It's 25R? It replaces section 25?

The Vice-Chair (Mr. Jeff Leal): Yes, it's been distributed, I believe. It's right here.

Mr. Garfield Dunlop: I move that subsection 15(1) of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 12 of the bill, be struck out and the following substituted:

“Liability of owner for expenses

“(1) If an inspector or an agent of the society has provided an animal with food, care or treatment, the society shall serve on the owner or custodian of the animal an

itemized statement of account respecting the food, care and treatment.

“Same

“(1.1) Upon being served with an itemized statement of account under subsection (1), the owner or custodian of the animal is, subject to an order made under subsection 17(6), liable for the amount specified in the statement of account.

“Exception

“(1.2) Despite subsection (1.1), the owner or custodian of the animal is not liable for an amount expended for food, care or treatment that was not reasonable or necessary.”

The section splits the existing section into two and adds subsection (1.2). Subsection (1.2) exempts an owner or custodian from paying for unreasonable or unnecessary food care or treatment while in the custody or care of the OSPCA. It helps to ensure accountability and that extraordinary, unreasonable measures are not taken at the expense of the owner or the custodian.

The Vice-Chair (Mr. Jeff Leal): Mr. Levac.

Mr. Dave Levac: The intent is obvious to me: It's to make sure that this doesn't get used as a fundraiser, so quite frankly, in a nutshell, we're not going to support it, because it implies that. It may not be purposefully implying that, but we did hear some deputations where people were kind of zealous on the other side, saying that this is nothing more than a money-maker, because when they catch you, they charge an exorbitant amount of money in order to maintain the animal, and therefore we're making lots of money. I don't subscribe to that.

What I'm going to suggest to you respectfully is that this may fall into the category of the concerns that have been raised in the past about image versus reality, and if that case indeed is the fact, then there will be some work done with the staff and with the ministry and the OSPCA to see if there's any way to clean that up. But the OSPCA, in our research, charges actual animal care costs—veterinary bills, which are a standard practice not controlled by them; standard boarding charges—and if that could be probably researched and found out in terms of an average cost, which are calculated on a straight cost-recovery basis. The motion doesn't state how or by whom the cost might be judged as “reasonable or necessary,” which is very problematic. To define that becomes even a bigger cause of concern if this gets entrenched into the legislation, so we won't be supporting the amendment.

The Vice-Chair (Mr. Jeff Leal): Any further comment? Ms. DiNovo.

Ms. Cheri DiNovo: Again, this speaks to the deputations, and my concern and our concern in the NDP is those instances where the OSPCA has made a mistake and where the animal review board has said they've made a mistake and the owner still gets billed. That's not fair.

I know that in the previous amendment that the government made there's an attempt to put into this law that there's redress possible from either a provincial

judge or an animal review board or somebody that can then address the owner and charge OSPCA rather than the owner in those instances. Again, I hope that that's the case and that happens, because that's what this amendment speaks to.

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But I'm also concerned, and I will be voting against the amendment for the same reasons I voted against the other amendments: that we want to err on the side of the welfare of the animals. We don't want to hamper investigations where the animal's safety is in question with the thoughts, “Did I wreck their rug?” or “I'm going to have to pay for this some day down the road.” We don't want to leave any loopholes. So, erring on the side of the animals, we'll vote against this amendment.

Mr. Garfield Dunlop: If I may, just for a moment: What we were trying to do with this was to bring in more transparency and more accountability to an organization that we heard clearly, over the course of the hearings, that there has been problems with. A lot of the things we're saying here today—“We're going to fix it in the future. We're going to make sure that they're trained better” etc. But at the end of the day, they are accountable to the taxpayers of the province of Ontario. I felt that a motion like this was well intended and showed that we as legislators—or this committee at least—are trying to show accountability. I still believe it's a mistake not to support this, but I will be asking for a recorded vote on it.

The Vice-Chair (Mr. Jeff Leal): Any further comment? All in favour of this amendment?

Ayes

Dunlop.

Nays

DiNovo, Jaczek, Levac, Moridi, Rinaldi, Zimmer.

The Vice-Chair (Mr. Jeff Leal): It is defeated.

Mr. Levac.

Mr. Dave Levac: I move that subsection 15(1) of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 12 of the bill, be amended by striking out “subject to an order made under subsection 17(6)” and substituting “subject to an order made under subsection 14(1.1.1) or (1.1.2) or 17(6).”

This clarifies the liability for animal care costs that applies to all removed animals, whether they are simply removed to relieve their distress or retained by the order and subject to a decision by the ACRB. This removes the text that inappropriately suggests that the ACRB could rule on costs pertaining to a court order.

This goes back to my comment about separating a court order and the ACRB, ensuring that a court order removes this matter from the jurisdiction of the ACRB.

The Vice-Chair (Mr. Jeff Leal): Any further comments? All in favour of this amendment? Carried.

Shall section 12, as amended, carry? Carried.

There are no amendments for sections 13 and 14. Shall sections 13 and 14 carry? Carried.

We're now on to page 27: Mr. Levac.

Mr. Dave Levac: I move that section 15 of the bill be amended by adding the following subsection:

“(1.1) Subsection 17(2) of the act is amended by striking out ‘in respect of which an order has been made’ and substituting ‘in respect of which an order under subsection 13(1) has been made.’”

Obviously, this clarifies the section which refers to costs in the matter within a jurisdiction of the ACRB, not a matter being dealt with by the new proposed court order to retain an animal. This specifies that the order referred to in this current ACRB-related section of the OSPCA Act is a compliance order made under the existing section 13 of the act, not a court order obtained through the proposed new provisions of this bill. This helps eliminate any potential confusion and ensures that a court order removes this matter from the jurisdiction of the ACRB.

The Vice-Chair (Mr. Jeff Leal): Further comment? All in favour of this amendment? Carried.

Mr. Dunlop.

Mr. Garfield Dunlop: I move that section 15 of the bill be amended by adding the following subsection:

“(2.1) Section 17 of the act is amended by adding the following subsection:

“Composition of board at hearing

“(4.1) The panel assigned under subsection 16(4) for a hearing under this section must include one veterinarian with experience caring for animals belonging to the same species as the animal that is the subject of the hearing.”

This addition will ensure that an experienced veterinarian sits on the review board. It provides some accountability when complaints are made against the organization by placing an independent expert on that board.

The Vice-Chair (Mr. Jeff Leal): Thank you, Mr. Dunlop. Mr. Levac, please.

Mr. Dave Levac: I guess maybe a simple question would be, what would happen if you couldn't find one? Does it therefore become moot? Can they proceed? Can they do work?

Are you defining what their role is specifically only because they can talk on matters of jurisdiction within their own professional domain? There are no requirements for any particular skills or professional qualifications to be appointed to the ACRB. This amendment would make sure that happens, but even so, it has sometimes proven difficult to attract those particular kinds of members to any board, under any circumstance, that we have in the province. Veterinarians would be welcomed on the board. It's not as if we're saying that they can't apply. Everybody has access to apply to this, and maybe some cajoling and some nudging of shoulders could help. In practice, because of the tight timelines required to deal with appeals, veterinarians who have been on the ACRB in the past have found it difficult to participate in hearings because they can't close their clinics with such little notice.

It wouldn't be a bad thing to have access to advice from a veterinarian, which is actually presently the case. The board relies on testimony, including expert testimony from either party. That, too, can include veterinarians or specific expertise. If it's specific to the expertise that we're looking for, there are two ways to do that. That would be to encourage a veterinarian to join the board on their own, and number two would be that any side of an issue can bring their own expert to make expert testimony to the process that's going on presently.

So we're not in favour of demanding that somebody has to be a certain type of person to be on the board.

Mr. Garfield Dunlop: I certainly understand the reasons you've given, but when you think of something like an Animal Care Review Board, you would automatically think that you'd want the expertise of somebody with some veterinary experience on it. We thought this was something where, if we moved forward with better animal welfare in the province of Ontario, we would be able to attract people like that. That's why we wanted to put it in as part of the actual amendments. There are many, many veterinarians who are retired and I'm sure would love to be that particular person on the board, but you could easily appoint it too. Make it part of the legislation: That's what we're asking for. But I take by your comments you're not going to support it.

Mr. Dave Levac: No.

Mr. Garfield Dunlop: So I'll ask for a recorded vote on that. Thank you.

The Vice-Chair (Mr. Jeff Leal): Ms. DiNovo, please.

Ms. Cheri DiNovo: I'm wondering if the government would consider a sort of friendly amendment to this amendment. You had mentioned that testimony from a veterinarian is included in such cases. I'm wondering if we could make that a necessity, that it include testimony from a veterinarian with experience caring for animals belonging to the same species as the animal that is the subject of the hearing, so that that voice is heard in those cases. Again, I'm thinking of the cases where you're looking at exotic animals and exotic circumstances, so to speak, where you really do need expert testimony. It makes me, as it makes Mr. Dunlop and certainly a number of deputants we've heard, a little queasy to think that folk will be deciding on these cases without that expert testimony.

The Vice-Chair (Mr. Jeff Leal): Ms. DiNovo, just for the sake of clarification, you're moving an amendment to this amendment?

Ms. Cheri DiNovo: Well, instead of including “one veterinarian,” it would be testimony from a veterinarian.

The Vice-Chair (Mr. Jeff Leal): Mr. Levac, please.

Mr. Dave Levac: I'm going to take a shot at this one, kind of ad hoc, so bear with me in case somebody whispers to me later.

What I think we're doing here is making an assumption that everyone would be participating at an expert level. Don't forget, this is not at the court level, because that happens—and we've separated that—in any other

given circumstance where expert testimony comes in, and it's usually two different experts who have opposing views of what they're looking at.

In terms of the Animal Care Review Board, we're making the same assumption, that we have to have a veterinarian there. If they have to have a veterinarian there, my logic tells me that if I'm the person who's going to "lose" the case, I'm going to want to try to get an expert there. Am I guaranteed that that person whom we're asking for in terms of maybe an on-call veterinarian, I guess I'm characterizing it as—is there an assumption there that either side is going to be happy with what the veterinarian says? That's not the intent, if I'm hearing this right. The intent is to ensure that we've got somebody who's got expertise in the particular case—not holistically—that we're dealing with. It behooves those who are involved in the case to bring somebody to show them, "You're wrong in your assumption, OSPCA," or the OSPCA brings somebody who says, "You're wrong, because our experts tell us you're not treating them properly, and we've got expertise to do that." I just don't think that legally we should be entrenching that in the legislation, as opposed to a practice that should be maintained. You can do the friendly amendment, but we're not going to accept it.

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Ms. Cheri DiNovo: We've entrenched lots of things in this bill that shouldn't be entrenched.

In light of the overriding ethic of the welfare of the animals, I'm going to support this amendment as it stands, because I hope it sends a strong message that we need to have expertise on this animal review board and that you can't have people ascertaining the welfare of a tiger who have never met one. Again, the interest of the animal at stake here—the end result of this is that when you remove animals, particularly exotic ones, where do they go? Nobody has room for them; they're going to be euthanized. So in the interest of the welfare of the animals, to see more animals saved, I'm going to vote for this amendment.

The Vice-Chair (Mr. Jeff Leal): Ms. DiNovo, just for clarification, are you moving an amendment to the amendment?

Ms. Cheri DiNovo: No, I'm withdrawing it. The government is not interested in doing that anyway. I was hoping maybe we could get it passed that way, but we'll vote for it as it stands, since it's not going to pass anyway.

The Vice-Chair (Mr. Jeff Leal): Thank you very much for that clarification. Mr. Dunlop, do you have anything further?

Mr. Garfield Dunlop: No, that's fine. I'd ask for a recorded vote.

Ayes

DiNovo, Dunlop.

Nays

Jaczek, Levac, Moridi, Rinaldi, Zimmer.

The Vice-Chair (Mr. Jeff Leal): It is defeated.

Mr. Levac, please.

Mr. Dave Levac: I move that clause 17(6)(d) of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in subsection 15(4) of the bill, be amended by striking out "or an order to keep the animal under subsection 14(1.1)."

This removes an erroneous reference to the suggestion that ACRB could rule on costs involving a matter that is subject to the court. We've gone through this a couple of times. This is one of those housekeeping issues, where we're separating the court action and the ACRB. It helps eliminate any potential confusion and ensures that a court order removes this matter from the jurisdiction of the ACRB.

The Vice-Chair (Mr. Jeff Leal): Further comments? All in favour of this amendment? Carried.

Shall section 15, as amended, carry?

We have a proposed new section 15.1. Mr. Dunlop, please.

Mr. Garfield Dunlop: I move that the bill be amended by adding the following section:

"15.1 The act is amended by adding the following section:

"Public complaints

"17.1 (1) Any person may file a complaint with the board in respect of the conduct of an inspector or an agent of the society.

"Procedures

"(2) Subsections 17(3), (4) and (5) apply with necessary modifications to a complaint made under subsection (1).

"Powers of board

"(3) After a hearing or, with the consent of the society, the inspector or agent who is the subject of the complaint and the person who filed the complaint under subsection (1), without a hearing, the board may make a finding as to whether the inspector or agent conducted himself or herself in accordance with the standards established by the chief inspector of the society under subsection 6.1(2).

"Notice of decision

"(4) Notice of the decision of the board made under subsection (3), together with reasons in writing for its decision, shall be served forthwith upon the society, the inspector or agent who is the subject of the complaint and the person who filed the complaint."

In this edition, it expands the powers of the animal review board, it allows an individual to make a complaint against an inspector to the existing review board, and it provides the board with the power to make a finding. In such cases, the finding must be reported to the OSPCA.

The Vice-Chair (Mr. Jeff Leal): Mr. Levac, please.

Mr. Dave Levac: Because of the deputation, there is logic to what the PCs are providing here in this amendment, but it causes some pretty big problems, so I want to review what those concerns could be.

Presently, for clarity, the board currently hears only the appeals of the OSPCA compliance or removal orders,

so what you're doing is actually expanding the scope immensely, which creates a little bit of an extra bureaucratic—and I'm appealing to the member who proposed this and their normal philosophical belief, that it's expanding the actual premise of what the ACRB is. It could increase their workload and a need for additional expertise to deal with these matters, with a significant resource impact. While that may not be such a bad thing, the problem is that with the definition of the chief inspector, we now have a public complaints process for which he or she would be responsible and we have formalized the position within the OSPCA. Therefore, what you then do is you remove all of that process completely.

So, coupled with the fact that this is a scope increase that we're not prepared to support, and that we'll start to remove the very essence of why we've increased the chief inspector's scope, I think it's fair to say that we can't accept the amendment as proposed. But we also recommend strongly to look at that side-effect that we believe is going to be there by accepting the amendment.

The Vice-Chair (Mr. Jeff Leal): Thank you, Mr. Levac. All in favour of a new section 15.1? Opposed? It's defeated.

Section 16: Mr. Dunlop, please, on page 31.

Mr. Garfield Dunlop: I move that section 18.1(1) of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 16 of the bill, be amended by striking out "or" at the end of clause (d), by adding "or" at the end of clause (e) and by adding the following clause:

"(f) makes a frivolous report to the society in respect of an animal being in distress."

This addition expands the offences section. It makes it an offence for someone to make a complaint against another person that they are causing an animal distress, or to claim that an animal is in distress, when there is no valid basis for making that claim. This addition will help to protect animal owners against complaints made, for example, as a result of spite and not fact.

The Vice-Chair (Mr. Jeff Leal): Mr. Levac.

Mr. Dave Levac: Actually, I like this one. We've talked about this, and, quite frankly, we did hear that those circumstances exist. In my past life, I experienced the types of things that frivolous and vexatious accusations can cause.

We would like to offer Mr. Dunlop a friendly amendment by broadening and making some definitions. In front of "makes," we would like to propose "knowingly," and instead of "frivolous," to simply use the word "false." I think "false" defines it and actually broadens the capacity. So we would like to support, with a friendly amendment, adding the words "knowingly" and changing "frivolous" to "false."

Mr. Garfield Dunlop: I really appreciate the amendment.

The Vice-Chair (Mr. Jeff Leal): What we'll do is deal with the amendment to the amendment first.

Mr. Dave Levac: With a friendly amendment, can't you just simply add it without having to deal with it?

The Vice-Chair (Mr. Jeff Leal): I want to follow process, so we'll go with the amendment to the amendment. All in favour of that? Carried.

Ms. DiNovo, did you want to provide some comment here?

Ms. Cheri DiNovo: Just that I support the government's amendment. Before, Dave said that it needs to be knowingly false, because again, we don't want to deter people from making a complaint where they think there's a basis. It might turn out there's not a basis, but we don't want to deter that—so absolutely.

The Vice-Chair (Mr. Jeff Leal): All in favour of the amendment, as amended?

Mr. Dave Levac: Recorded vote.

The Vice-Chair (Mr. Jeff Leal): It carries.

Mr. Dunlop, please continue.

Mr. Garfield Dunlop: I thought he asked for a recorded vote.

Mr. Dave Levac: I did.

Mr. Garfield Dunlop: It's okay, Dave.

Mr. Dave Levac: Is it too late?

The Vice-Chair (Mr. Jeff Leal): Mr. Levac, please.

Mr. Dunlop.

Mr. Garfield Dunlop: I move that subsection 18.1(2) of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 16 of the bill, be amended by striking out "clause (1)(a), (d) or (e)" and substituting "clause (1)(a), (d), (e) or (f)."

This simply accounts for the previous addition to 18.1(2) by adding subsection (f) so that the individuals found guilty of making a frivolous complaint are subject to the penalties laid out in this section.

1150

The Vice-Chair (Mr. Jeff Leal): Mr. Levac, please.

Mr. Dave Levac: Following protocol, Mr. Chairman, I would ask for an amendment to this amendment.

The Vice-Chair (Mr. Jeff Leal): Proceed, Mr. Levac.

Mr. Dave Levac: The amendment to the amendment would use the same verbiage as was just passed, as in "knowingly," and "false" for "frivolous." That's not necessary.

The Vice-Chair (Mr. Jeff Leal): This just lays out the section. We don't need that, Mr. Levac.

Mr. Dave Levac: We don't even need that?

The Vice-Chair (Mr. Jeff Leal): No.

Mr. Dave Levac: Okay, so it just says "(f)"?

The Vice-Chair (Mr. Jeff Leal): We're good.

Mr. Dave Levac: Okay. So I'll tell you what: We'll support that one.

The Vice-Chair (Mr. Jeff Leal): Any further comment? All in favour? Carried.

Mr. Dunlop, you're on a roll here.

Mr. Garfield Dunlop: I wonder for how long.

Mr. Dave Levac: Keep going.

The Vice-Chair (Mr. Jeff Leal): You never know.

Mr. Garfield Dunlop: I move that section 18.1 of the Ontario Society for the Prevention of Cruelty to Animals

Act, as set out in section 16 of the bill, be amended by adding the following subsection:

“Other orders

“(8) If a person is convicted of an offence under subsection (1), the court making the conviction may, in addition to any other penalty, make any other order that the court considers appropriate, including an order that the convicted person undergo counselling or training.”

This provides the court with the power, as a penalty when an offence has been committed, to order an individual to undergo counselling or training. It provides a penalty that can teach an individual the proper method of caring for animals as opposed to simply punishing an individual when the latter may not be appropriate in the specific context.

The Vice-Chair (Mr. Jeff Leal): Mr. Levac, please.

Mr. Dave Levac: Just to show you that we’ve been doing our homework, Mr. Chairman, and that I listened, I’d like to explain a friendly amendment that we would propose to make this acceptable. We will be voting in favour if we can get this.

If I can read the section that we want to change, it would be immediately after, in the first sentence, subsection (1): “(b) or (c).”

The rationale behind that, I explained to Mr. Dunlop, would be that there are circumstances where, if we pass this unamended, then someone who would be doing something rather nasty could actually just get counselling. What we’re talking about is the animal cruelty portion of the bill and how to treat animals. That’s why we want to put in (b) and (c) and not to allow simply no charges except for a counselling piece when somebody’s doing something really nasty. Our intention is to protect the animals in the animal cruelty piece. That’s what we’re suggesting.

Mr. Garfield Dunlop: I fully support that and appreciate that.

The Vice-Chair (Mr. Jeff Leal): Mr. Wood, please.

Mr. Michael Wood: Just a slight comment here about wording: If we are going to refer to (1)(b) or (c), we have to say “clause (1)(b) or (c),” not “subsection (1)(b) or (c).”

Mr. Dave Levac: I will stand corrected and re-amend it, if that’s the process, Mr. Chairman.

The Vice-Chair (Mr. Jeff Leal): Yes, that’s fine.

Mr. Dave Levac: So I’ll say, “If a person is convicted of an offence under clause (1)(b) or (c),” instead of “under subsection (1).” That’s the change we’re looking for. I would give that to Mr. Dunlop to make his comments on.

Mr. Garfield Dunlop: I appreciate that and will support that.

The Vice-Chair (Mr. Jeff Leal): In due process, we’ll do the amendment to the amendment first, which was just your former remarks there. All in favour of that? Carried.

Then the amendment to the amendment—we’ll vote on that, and then we’ll vote on the final amendment, as amended, right? It’s all good?

Interjection.

The Vice-Chair (Mr. Jeff Leal): Okay. We’ll vote for the amendment, as amended. All in favour? Carried.

Shall section 16, as amended, carry? Carried.

I’m just going to ask for guidance from the committee. It’s about five to 12 here. We have section 17, where there are no amendments, so we could carry that, and then go through section 18, which is the last one. So I think we could probably finish up without recessing and coming back after 1. I’m just looking for committee members’ guidance on that.

Mr. Garfield Dunlop: I would support that, Mr. Chair.

The Vice-Chair (Mr. Jeff Leal): Thank you.

Mr. Dave Levac: I’m in.

The Vice-Chair (Mr. Jeff Leal): Okay, good. Shall 17 carry? Carried.

Section 18: Mr. Dunlop, please.

Mr. Garfield Dunlop: I move that section 21 of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 18 of the bill, be amended by striking out “the provision that affords the greater protection to animals shall prevail” at the end and substituting “the provision of this act or of the regulation made under this act shall prevail.”

This amendment ensures that animals are treated by a uniform standard across the province. It provides animal owners and caretakers with uniform standards, making compliance less complicated, and provides farmers with equal standards of care so that some are not put in a relatively uncompetitive position from different OSPCAs across the province.

The Vice-Chair (Mr. Jeff Leal): Mr. Levac?

Mr. Dave Levac: This is one of those tough ones where you end up with legislation, historically, on either side of the fence. I’ll explain to you why we’ve landed against this particular one and on the side of the fence of the community bylaw standards.

The motion, even though it’s not done this way—and I respect Mr. Dunlop’s and the party’s position—doesn’t respect the municipal jurisdiction to make bylaws pertaining to animals, nor does it support the goodwill of the communities that want local bylaws to deal with particular local animal welfare issues, because there are varying issues for animal welfare from community to community: urban/rural, small/large, northern/southern, eastern/western. I think that each one of those communities has done a good job on their own of deciphering what their local needs can be. Therefore, that’s the side of the fence that we’re landing on with this one and why we can’t accept it.

I would also suggest to you—and this is respectful—that we did consult with AMO and we received their support to not accept this amendment because of the stated facts that I just gave you, that regionally and under the circumstances of the bylaws, we can’t accept that.

The Vice-Chair (Mr. Jeff Leal): Thanks, Mr. Levac. Mr. Dunlop, anything further?

Mr. Garfield Dunlop: I have no further comments.

The Vice-Chair (Mr. Jeff Leal): Ms. DiNovo, please.

Ms. Cheri DiNovo: Yes, we're going to vote against this amendment as well. Again, we would like to see the greater protection of animals prevail. It's too bad we can't use this to get rid of section 6.

This was a fault in some other government legislation, I seem to recall, where pesticides or something were concerned, where municipalities had, in fact, stronger legislation than the government brought forward and were subsumed under the government legislation. So we will be voting against this.

The Vice-Chair (Mr. Jeff Leal): All in favour of this amendment? Opposed? It's defeated.

We move to 35R: Mr. Dunlop.

Mr. Garfield Dunlop: Yes, there's a replacement for 35, 35R, but I'll be withdrawing that because it refers to subsection 1(4).

The Vice-Chair (Mr. Jeff Leal): Thank you very much, Mr. Dunlop.

Mr. Levac, please.

Mr. Dave Levac: Again, thank you, Mr. Dunlop, for recognizing that.

I move that clause 22(1)(a) of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 18 of the bill, be struck out.

This removes 22, regulation-making authority to define the details of wildlife exceptions to cause/permit distress. We've already dealt with that in the previous body of the act, and I think it becomes redundant.

The Vice-Chair (Mr. Jeff Leal): Further comments? All in favour? Carried.

Mr. Dave Levac: We're going to use the same situation, but I have to put it on for Hansard.

I move that clauses 22(1)(b) and (c) of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 18 of the bill, be struck out and the following substituted:

"(b) prescribing activities that constitute activities carried on in accordance with reasonable and generally accepted practices of agricultural animal care, management or husbandry for the purposes of clauses 11.1(1.1)(a) and 11.2(6)(b);

"(c) prescribing classes of animals, circumstances and conditions or activities for the purposes of clauses 11.1(1.1)(b) and 11.2(6)(c)."

This is a language situation, again, from the body of the legislation that we've already done to entrench something we've made the commitment to do.

The Vice-Chair (Mr. Jeff Leal): Comments? All in favour of this amendment? Carried.

Number 39: Mr. Dunlop, please. Sorry; 38.

Mr. Garfield Dunlop: This may be redundant, but I'll read it anyway.

I move that subsection 22(1) of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 18 of the bill, be amended by adding the following clause:

"(c.1) prescribing biosecurity protocols to be followed by inspectors and agents of the society."

This expands the list of what can be regulated to include biosecurity protocols, mentioned in our previous amendment; I don't think any of them passed. Having prescribed protocols will ensure uniform standards where none already exist. It will also set a prescribed standard for OSPCA inspectors to follow across our province.

1200

The Vice-Chair (Mr. Jeff Leal): Mr. Levac.

Mr. Dave Levac: As pointed out by Mr. Dunlop, that it becomes redundant or ineffective on its own, I'm just going to simply suggest that—but I will say this: The debate on the biosecurity has been mentioned, brought up, and we will make sure that Hansard and notes are taken and that the chief inspector is notified of the concerns raised by the PC Party on this issue.

The Vice-Chair (Mr. Jeff Leal): All in favour of this amendment? Opposed? It's defeated.

Mr. Dunlop.

Mr. Garfield Dunlop: I move that clause 22(2)(d) of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 18 of the bill, be struck out and the following substituted:

"(d) prescribing forms for the information on oath required by subsection 12(1) or 14(1.1), for a warrant issued under subsection 12(1) and for an order issued under subsection 14(1.1) or (1.2)."

This amendment ensures that standards of care are prescribed that are not different from the national codes of practice, if they exist. This will ensure uniformity and that existing standards are not amended in the light of this bill.

The Vice-Chair (Mr. Jeff Leal): Mr. Levac.

Mr. Dave Levac: As was the case in the last example, this would end up having no effect on its own because of the rejection of the previous proposal of the amendment, which means that you would remove the inspection powers, as has been explained previously. So we're not going to support it.

The Vice-Chair (Mr. Jeff Leal): Anything further? All in favour of this amendment? Opposed? It's defeated.

Number 40: Mr. Dunlop.

Mr. Garfield Dunlop: I move that section 22 of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 18 of the bill, be amended by adding the following subsection:

"Prescribed standards of care

"(3) The standards of care prescribed under clause (2)(b) shall correspond to national codes of practice where they exist."

This amendment ensures that where standards of care are prescribed they are not different from the national codes of practice, if and when they exist. This will ensure that uniformity and that existing standards are not amended in light of this bill.

The Vice-Chair (Mr. Jeff Leal): Mr. Levac.

Mr. Dave Levac: I have to start by acknowledging that there is a certain logic to what's being proposed, that

if it were the perfect circumstance, this would be acceptable. But the perfect circumstance doesn't actually exist. In our research, we found out that it's problematic to reference a national code of practice, because they're currently outdated and actually are being looked at, and they're unenforceable or they deal with very limited types of animals, including animal research facilities, which is addressed in OMAFRA's Animals for Research Act. Within itself, as explained in the deputations are exempted research facilities from the OSPCA Act anyway.

So there's such inconsistency, and it's going to be very hard to tie all of this in. I again reinforce that it would be nice, in a perfect world, to be able to do that in terms of the national codes, but it also infringes on the relationship that's been struck between OMAFRA, OSPCA and common practices in Ontario, and there's a limited amount of practice between provinces that is universal in nature, given the circumstances behind food safety. It also would change even the proposed definition of "distress" that we didn't accept, and therefore on its own would make it very difficult for us to accept this as a motion.

The Vice-Chair (Mr. Jeff Leal): Anything further? All in favour of the amendment? Opposed? Defeated.

You have a new one, Mr. Dunlop, 41R?

Mr. Garfield Dunlop: Yes, I do. I move that section 22 of the Ontario Society for the Prevention of Cruelty to Animals Act, as set out in section 18 of the bill, be amended by adding the following subsection:

"Consultation required

"(4) Before recommending or making a regulation under subsection (1) or (2), the minister shall consult with organizations representing persons who may be affected by the regulation or representing the interests of animals that may be affected by the regulation."

I just wanted to add that this section as added ensures that when the regulations are made, the minister shall consult with interested parties. It ensures consultation when existing regulations are also being amended. We heard this over and over again. A lot of people are extremely concerned about what will come out in the regulations, and we want the expertise behind them helping the government make those regulation changes.

The Vice-Chair (Mr. Jeff Leal): Mr. Levac.

Mr. Dave Levac: Again, one of those kind of motherhood things that imply that, wouldn't it be a perfect world if we could all come together and say, "This is the regulation we want"?

Germane to the specifics of the request, it could significantly encumber the government's role in making regulation because anyone can identify themselves as a stakeholder because it's not described. If it's not going to be prescribed in terms of who are those stakeholders that would be affected, it could be a tactic that gets used in order to stall, stop, derail any kind of regulation that's coming on. So any person may claim to be affected by the regulation so therefore must be part and parcel of all of the consultation that's going on.

So I point out a couple of things. Number one, under every government of all stripes there was always—let me be kinder—usually a consultation component to regulations. We've got evidence of that. From time to time, there's a hit and miss, but the general practice is for government officials at staff level, and sometimes even at the ministry level, to enter into some honest brokering and honest debating about regulations and how they're going to impact; that's number one. Number two, consultations with stakeholders is a standard practice with the intent, and it being advisable, that it occurs on an ongoing basis, because there has been consultation, and some people like to define it as, "Well, you didn't do any consultation because I've got an example of a group over here that didn't get called." If we engage in the "gotcha" mentality, this entrenches it, but the flaws outweigh the intent of what is being proposed.

First of all, that means we can't accept it, and second of all, I'd also suggest to you respectfully that this is an ongoing process. The bill itself garnered a lot of consultation from the stakeholders, then it was produced, then we shopped it by going on committee, and now we're coming back and doing clause-by-clause. Each of the parties has indicated that it has contacted its stakeholders, the people who were concerned about it. The commitment that this government and this particular minister made was that there will be some consultation during the process of creating the regulations. I think that process itself is satisfied without having this particular amendment.

The Vice-Chair (Mr. Jeff Leal): Ms. DiNovo, please.

Ms. Cheri DiNovo: This speaks to transparency, and basically the principle is: more transparency, good; less transparency, bad.

With respect, hearing the concerns of the government side, we still think that there were voices that were heard in deputation that were clearly not front and centre in even the development of this bill, hence our problems with section 6 and the fact that the government seems to have come down on the side of the OSPCA against some of its affiliates and non-affiliates. Again, I think it's pretty clear which are the organizations that exist in our communities that speak for animals. You would want them to be part of the regulatory process. Because the government has the majority, this is not going to pass. We would hope that particularly those voices that feel left out and, perhaps it's not too strong a word to use, abused by elements like section 6 could be the first to the table in terms of regulations. We feel that needs some time.

Again, we're very concerned about the idea clearly manifest in section 6 that the OSPCA is the place to go, and the Humane Society of Canada or the Burlington Humane Society or other humane societies are not the place to go. We would like those voices that have been overlooked and not heard to be heard. I absolutely would support this amendment, but as I say, since we know it's not going to pass, just a friendly cautionary note that I

hope that those voices are incorporated into the regulations so it doesn't affect them adversely.

The Vice-Chair (Mr. Jeff Leal): Mr. Dunlop, anything further?

Mr. Garfield Dunlop: I would just ask for a recorded vote on this one, please.

Ayes

DiNovo, Dunlop.

Nays

Jaczek, Levac, Moridi, Rinaldi, Zimmer.

The Vice-Chair (Mr. Jeff Leal): This amendment is defeated.

Shall section 18, as amended, carry? Carried.

Shall sections 19 and 20 carry? Carried.

Shall the preamble of the bill carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 50, as amended, carry? Carried.

Shall I report Bill 50, as amended, to the House? Carried.

Mr. Dunlop, please.

Mr. Garfield Dunlop: If I may, I'd like to thank you and Mr. Zimmer for the work you've done as chairs of the committee. I'd also like to thank legislative counsel and legislative research for their work on this, particularly with the amendments. To my executive assistant, Gaggan Gill, who's here today, and our caucus research, a young lady, Sarah Ellis, I want to appreciate the work they've done as well. I look forward to the third reading debate in the House.

The Vice-Chair (Mr. Jeff Leal): I would just like to thank the work, Mr. Dunlop, that has been accomplished by you over the years—

Interjection: Dunlop.

The Vice-Chair (Mr. Jeff Leal): Sorry; that's right: the tires on the car.

Mr. Dunlop, I just want to thank you for your work in previous Legislatures on this particular issue, as you've been a critic and member of government on this issue; and certainly Mr. Zimmer and Mr. Colle for the work that they've been doing in this field over the last number of years; and Mr. Levac, for the erstwhile work you've

been doing as the parliamentary assistant to move this forward.

Mr. Levac, please.

Mr. Dave Levac: I would be remiss not to thank everybody, actually. I found this committee work on this particular bill to be exemplary in terms of providing people with an opportunity to voice their concerns. I want to thank the deputants. I think they were professional in nature. I would like to thank the opposition for its willingness to participate in the briefings that were provided during that time period.

I also think that, in terms of trying to protect animals, I would never accuse anyone of not doing so. But in terms of clarity, I think what we've tried to do is bring a continuation and growth of what we want to do in Ontario. I know that there will be questions about certain aspects of the bill, and that's just a normal thing to happen in government.

A very large thank you to all those who supported us, and a special mention to staff who have quietly, behind the scenes, done an awful lot of work. I think that's kind of nice, because I think all of us have mentioned that from time to time, the amount of work that goes on behind the scenes—Hansard, everybody. Quite frankly, this place works very well, quietly, and a lot of people don't take a moment to say thank you, so I think we're all saying thank you for that.

The Vice-Chair (Mr. Jeff Leal): Ms. DiNovo, please?

Ms. Cheri DiNovo: Just to second all of that.

A question: In terms of adding a letter to this submission, is there a date on that? When do we have to get it in by?

The Vice-Chair (Mr. Jeff Leal): Mr. Clerk?

Interjection.

The Vice-Chair (Mr. Jeff Leal): We'll get back to you on that, if that's okay.

Ms. Cheri DiNovo: Wonderful. Thank you. I thank legislative counsel again.

The Vice-Chair (Mr. Jeff Leal): We have duly noted it. Anything further?

This committee stands adjourned.

The committee adjourned at 1214.

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